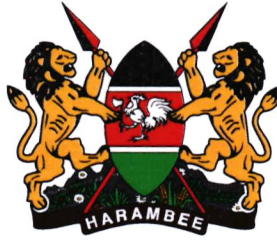


Approved for tabling in the House.

REPUBLIC OF KENYA



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SNA  
28/9/2021

TWELFTH PARLIAMENT - FIFTH SESSION - 2021

THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE




**REPORT ON THE CONSIDERATION OF  
THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL, 2021**

**(National Assembly Bill No. 31 of 2020)**

**SEPTEMBER, 2021**

**Office of the Clerk,**  
Directorate of Departmental Committees,  
National Assembly,  
Parliament Buildings,  
**NAIROBI.**

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE:</b> 28 SEP 2021	<b>DAY:</b> Tuesday
<b>TABLED BY:</b>	Vic Chairperson, DC on labour & social welfare
<b>CLERK-AT THE-TABLE:</b>	Getrude chebet



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## LIST OF ABBREVIATIONS AND ACRONYMS

AG	-	Attorney General
CBO	-	Community Based Organization
CHOGM	-	Commonwealth Heads of Government Meeting
COSW	-	Commonwealth Organization for Social Work
CS	-	Cabinet Secretary
CUE	-	Commission on University Education
FBO	-	Faith Based Organization
Hon	-	Honourable
M.P.	-	Member of Parliament
IFSW	-	International Federation of Social Workers
JKUAT	-	Jomo Kenyatta University of Agriculture and Technology
KEMSWA	-	Kenya Medical Social Workers Association
KHPOA	-	Kenya Health Professions Oversight Authority
KIA	-	Kenya Institute of Administration
KMTC	-	Kenya Medical Training College
KNASW	-	Kenya National Association of Social Workers
MDG	-	Millennium Development Goal
MSW	-	Medical Social Workers
NA	-	National Assembly
NEC	-	National Executive Council
NGO	-	Non- Governmental Organization
PS	-	Principal Secretary
SDG-	-	Sustainable Development Goal
TVET	-	Technical and Vocational Education and Training
UN	-	United Nations
UNICEF	-	United Nations Children's Fund
WHO	-	World Health Organization

## **LIST OF ANNEXURES**

- Annexure 1:** Adoption Schedule
- Annexure 2:** Bill No. 31 of 2020
- Annexure 3:** Newspaper Advertisement
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- Annexure 5:** Schedule of Amendments

## **CHAIRPERSON'S FOREWORD**

The Institute of Social Work Professionals Bill, 2020 (*National Assembly Bill No. 31 of 2020*) underwent First Reading on 22<sup>nd</sup> December, 2020. Thereafter, the Bill was committed to the Departmental Committee on Labour and Social Welfare to review and report to the House pursuant to the provisions of Standing Order 216(5) (c).

Consequently, the Committee, pursuant to Article 118 of the Constitution and Standing Order 127 (3), invited submissions from members of the public on the above Bill via advertisements in the national dailies on 22<sup>nd</sup> February, 2021. During its Sittings held on 5<sup>th</sup> March, 2021 and 19<sup>th</sup> March, 2021, the Committee considered the submissions on the Bill from the sponsor of the Bill and key stakeholders, including the Ministry of Health, Ministry of Labour and Social Protection, the Ministry of Interior and Coordination of National Government, various Associations of Social Work, etc. Thereafter, the Committee retreated to consider the submissions and deliberate on the provisions in the Bill. Accordingly, the Committee recommends that the Bill be agreed to, subject to the proposed amendments in the Schedule to this Report.

May I take this opportunity to commend the Committee members for their devotion and commitment to duty in consideration of the Bill and express gratitude to the Offices of Speaker and Clerk of the National Assembly for providing technical and logistical support to the Committee.

On behalf of the Departmental Committee on Labour and Social Welfare and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and duty to present to the House a report of the Committee on the Institute of Social Work Professionals Bill (National Assembly Bill No.).

On behalf of the Departmental Committee on Labour and Social Welfare and pursuant to the provisions of Standing Order 114 (7) it is my pleasant privilege and duty to present this Report on the Consideration of the Institute of Social Work Professionals Bill (National Assembly Bill No. 31 of 2020).

**HON. JOSPHAT KABINGA WACHIRA, M.P.**

## CHAPTER ONE

### 1.0 PRELIMINARIES

#### 1.1 Committee Mandate

The Departmental Committee on Labour and Social Welfare is established in accordance with the provisions of Standing Order 216 of the National Assembly to, among others, study and review all legislation referred to it.

The Committee oversees the labour and social sectors, including labour, industrial relations, employment policies, social security and protection, youth affairs, gender affairs, children affairs, older members of society, disability and occupational safety.

#### 1.2 Committee Membership

The Committee comprises the following Members -

**The Hon. Josphat Kabinga Wachira, M.P. (Chairperson)**

Mwea Constituency

**Jubilee Party**

**The Hon. Gideon Koske Kimutai, M.P (Vice Chairperson)**

Chepalungu Constituency

**Chama Cha Mashinani (CCM)**

**The Hon. James Onyango K'Oyoo, M.P.**

Muhoroni Constituency

**Orange Democratic Movement (ODM)**

**The Hon. Janet Marania Teyiaa, M.P.**

Kajiado County

**Jubilee Party**

**The Hon. Gideon Keter, M.P.**

Nominated M.P

**Jubilee Party**

**The Hon. Ronald Kiprotich Tonui, M.P.**

Bomet Central

**Jubilee Party**

**The Hon. Moses Malulu Injendi, M.P.**

Malava Constituency

**Jubilee Party**

**The Hon. Tom Odege, M.P.**

Nyatike Constituency

**Orange Democratic Movement (ODM)**

**The Hon. Rose Museo, M.P.**  
Makueni County  
**Wiper Democratic Movement (WDM)**

**The Hon. Caleb Amisi, M.P.**  
Saboti Constituency  
**Orange Democratic Movement (ODM)**

**The Hon. Omboko Milemba, M.P.**  
Emuhaya Constituency  
**Amani National Congress Party (ANC)**

**The Hon. Charles Kanyi Njagua, M.P.**  
Starehe Constituency  
**Jubilee Party**

**The Hon. Fabian Kyule Muli, M.P.**  
Kangundo Constituency  
**Muongano Party**

**The Hon. Abdi Mude Ibrahim, M.P.**  
Lafey Constituency  
**Economic Freedom Party (EFP)**

**The Hon. Titus Mukhwana Khamala, M.P.**  
Lurambi Constituency  
**Amani National Congress Party (ANC)**

**The Hon. Safia Sheikh Adan, M.P.**  
Marsabit County  
**Jubilee Party**

**The Hon. Ole Sankok David, M.P.**  
Nominated M.P.  
**Jubilee Party**

**The Hon. Wilson Sossion, M.P.**  
Nominated M.P.  
**Orange Democratic Movement (ODM)**

### **1.3 Committee Secretariat**

The secretariat comprises the following officers –

- i) Ms. Susan Maritim, Senior Clerk Assistant/ Head of Secretariat
- ii) Mr. John Mugoma, Clerk Assistant II
- iii) Ms. Doreen Karani, Legal Counsel
- iv) Mr. James Muguna, Research Officer
- v) Ms. Winnie Kiziah, Media Relations Officer
- vi) Ms. Sheila Jebotibin, Sergeant-at-Arms

## CHAPTER TWO

### 2.0 INTRODUCTION

#### 2.1 History of Social Work

1. The Global Social Work Movement started in Paris in 1928 under the banner of Permanent Secretariat of Social Workers. The Movement was active and served the purpose until the outbreak of World War II. At a conference in Paris, a decision was made to create the International Federation of Social Workers. Thereafter, social workers in different countries mainly in Europe, Asia and in the Pacific defied the inclination to identify with the divisions created by both World War I and II and in 1956 formally founded the International Federation for Social Workers (IFSW) in Munich-Germany. Since then, countries and regions have been forming national and regional entities towards this goal.
2. The highest decision-making body in IFSW is the Executive Committee composed of the President, 5 Vice Presidents, a Treasurer and the Secretary General. There are also several Committees and Commissions.
3. Many Commonwealth countries including Australia, New Zealand, Canada and many former British colonies share similarities in the politics of their Social Work Associations and institutional set up. Entities in different countries or regions have formed Boards either to manage their examinations, practice standards, or to oversee competent and ethical practices mainly for public and institutional protection. Such Boards are formed by collective entities that have sizeable constituencies and a proven desire and evidence of the need for such a Board. In countries like Zimbabwe, United Kingdom, and Botswana legislations have been enacted only to be repealed after few years. South Africa is among the countries with multiple legislations including the South African Council for Social Services Professions Act 110 of 1978 and the Social Work Act of 1993.
4. In Kenya, formal social work education was introduced at diploma level at the Kenya-Israel School of Social Work and training at degree level started in 1976 at the University of Nairobi. Other universities offering Social Work Degree in Kenya are; the Moi University, Catholic University of Eastern Africa, Maasai Mara University, Masinde Muliro University and South Eastern Kenya University.

#### 2.2 Overview of the Bill

5. The Institute of Social Work Professionals Bill, 2019 (National Assembly Bill No. 31 of 2020), sponsored by Hon. Joshua Kimilu, M.P. was Read a First Time on 22<sup>nd</sup> December, 2020 and subsequently referred to the Committee for consideration.
6. In the Memorandum of Objects and Reasons, the Bill seeks to provide for the establishment of the Institute of Social Work and the Social Work Professionals Board as well as set out the examination, training, registration, licensing of registered social workers and regulation of standards and practice of social work professionals.

7. Clause 2 provides an interpretation of terms as used in the context of the Bill. For example, the proposed definition of “social work” means the assessment, diagnosis, treatment and evaluation of individual, interpersonal and societal issues through the use of social work knowledge, skills, interventions and strategies in connection with health, education, or social services to facilitate the achievement of optimum psychosocial functioning.
8. Part II (Clause 3-16) contains provisions establishing the Institute of Social Work Professionals, its Council and the Examination Board.
9. Clause 3 proposes the establishment of the Institute as a body corporate. The functions of the Institute are enlisted under clause 5 including, among others,-
  - (i) to establish, monitor and publish standards of professional competence and practice amongst social work professionals,
  - (ii) registration of persons as social workers,
  - (iii) promotion of research in social work practice,
  - (iv) provision of a medium of communication and exchange of information for persons engaged in social work,
  - (v) networking with regional and international bodies to promote social work;
  - (vi) hold examinations and prescribed tests to assess competency for qualification for membership;
  - (vii) regulate the practice, competence and professional conduct of social workers
  - (viii) promote and protect the welfare of social workers
10. Clause 4 proposes the membership of the Institute as comprising Fellows, members registered under clause 22, associate members (those eligible for registration but do not meet all prescribed requirements) and Honorary Fellows (non-members who the Council may invite as Honorary Fellows have rendered exceptional services to the Institute or social work)
11. Clause 6 provides for the Council of the Institute, being 9 members, and a three-year term of office renewable once. It is proposed that three of the council members shall be the Principal Secretaries for health, correctional facilities and social welfare or their representatives among the council members. Clause 7 provides for the office of the Executive Director, the qualifications for appointment and the responsibilities of the officeholder.
12. Clauses 8 and 9 provide for the recruitment of staff, agents, and officers of the institute and the engagement of consultants to render expert advice.
13. Clause 15 proposes the establishment of an Examinations Board known as the Social Work Professionals Examinations Board. Its functions are outlined under clause 16, including but

not limited to prescribing and regulating the syllabus of instruction for social work exams, preparing and conducting the exams for persons seeking registration, making examination rules, prescribing exam fees and charges, issuing certificates and awards to candidates, investigating and adjudicating on cases relating to students and remit at least 30% of the fees collected to the Institute.

14. Part III (Clauses 17-27) of the Bill contains provisions on the registration and the requisite qualifications of Social Work Professionals.
15. Clause 17 proposes the establishment of a Registration Committee comprised of a chairperson, one representative from FKE, one representative from the Examination Board, one representation from KNEC and the AG or his representative. The Executive Director will serve as secretary. The term of office is three years, with eligibility for one further term. The committee shall be responsible for receipt of applications for registration and granting certificates, monitoring compliance with professional quality assurance, prescribing regulations to govern quality assurance programmes and advising the council on matters of professional standards
16. Clause 18 provides the qualifications for registration as a social work professional, including good conduct, payment of prescribed fees, having undergone the prescribed courses and passed the examinations etc. on the other hand, clause 19 stipulates the disqualifying circumstances such as bankruptcy, professional misconduct, being of unsound mind etc.
17. Clause 20 requires persons practising in the style of a social work firm to register such firms with the registration committee.
18. Clauses 21-23 outline the manner of applying for registration, issuing a certificate of registration and circumstances where one may be deregistered.
19. Part IV (Clause 28) of the Bill provides for the issuance of practicing certificates to registered social work professionals. It provides for the manner of application, effect of the Practising Certificate and makes it an offence to fail to return a practicing certificate that is suspended or struck off the register of certificates.
20. Part V (Clauses 29-33) of the Bill contains provisions on the discipline of members of the Institute.
21. Clause 29 proposes the acts or omissions that may constitute professional misconduct, including deliberate failure to follow work procedures stipulated by employer or client, corrupt practices, use of position to obtain favours and benefits of any kind, fraud and dishonesty, allowing an unqualified person to practice in one's name, gross negligence of professional duty, disclosure of information without the consent of client/employer, failure to account for client's money etc.
22. Clause 30 makes provision for the Disciplinary Committee to comprise five members appointed by the Council from the Institute's membership. The Committee's mandate will be

to inquire into disciplinary matters referred to it concerning members of the profession and make appropriate recommendations to the Council. The recommendations against a member may be a formal admonish, suspension for less than 12 months, withdrawal or cancellation of the practicing certificate for not more than 5years, imposition of a fine or deregistration. Appeals from the decision of the Council shall lie in the High Court.

23. Clause 32 expounds on the procedure to apply during an inquiry and further empowers the disciplinary committee to regulate its procedure.
24. Under Clause 33, the Council may lift a suspension of a member to practice upon appeal by the member and the Council's satisfaction that the member's suspension is lifted.
25. Part VI (Clauses 34-37) of the Bill contains financial provisions noting that it specifies the sources of funds of the Council, financial year of the council, the manner of dealing with annual estimates of the Council. As regards the auditing and accounts of the Council, it is proposed that the financial statements be submitted to the Auditor-General for auditing and reporting as per the Public Audit Act.
26. Part VII (Clauses 38-40) of the Bill contains provisions on offences and penalties. The offences include masquerading as a social work professional and falsification of registers or records.
27. Part VIII (Clause 41) of the Bill contains provisions on delegated powers. Accordingly, the Council is empowered to make regulations for the better carrying out of the provisions of the Act and prescribe for matters listed under subclause (2).
28. Part IX (Clause 42) of the Bill contains transitional provisions. The aim is to ensure that, for continuity and smooth transition, the Kenya National Association of Social Workers existing before the enactment of this law assumes the responsibilities of the Council and Registration Committee in the interim until the new council members are elected under the Act. It will also ensure that the functions of other examinations bodies be transferred to the examination body under the Act within 12 months of commencement.

## CHAPTER THREE

### 3.0 PUBLIC PARTICIPATION ON THE BILL

29. The Institute of Social Workers Professionals Bill, 2020 underwent First Reading in the National Assembly on 22nd December, 2020 and subsequently committed to the Departmental Committee on Labour and Social Welfare for public participation and consideration pursuant to Standing Order 127 of the National Assembly Standing Orders.
30. Pursuant to Article 118 of the Constitution and Standing Order 127(3) of the National Assembly, the Committee, by way of an advertisement published in the Daily Nation and Standard Newspapers on **22<sup>nd</sup> February, 2021** invited interested organisations and members of the public to submit views or make representations regarding the Bill. Further, the Committee identified and invited key stakeholders to appear at a public hearing held on 19<sup>th</sup> March, 2021. The Committee later wrote to the Ministry of Labour and Social Protection, the Ministry of Health and the State Department for Correctional Services seeking their views on the Bill.
31. In response to the request to submit memoranda on the Bill, the Committee received written and oral submissions from (8) individuals and (6) institutions/ organisations.

#### 3.1 Submission by Hon. Joshua Kimilu, M.P. (Sponsor of the Bill)

32. The Hon. Joshua Kivinda Kimilu, M.P., the sponsor of the Bill, appeared before the Committee on 19<sup>th</sup> March, 2021 and on 1<sup>st</sup> September, 2021 and on 1<sup>st</sup> September, 2021 and presented both written and oral submissions as follows-
  - (i) The Institute of Social Work Professionals Bill 2020 comes at a time when Kenya's blue print for national development i.e. Kenya Vision 2030 is getting fully stabilised. A central pillar in the Kenya Vision 2030 focuses on the social sector within which various programmes and services for the Kenyan population are encompassed.
  - (ii) Social workers have been playing significant roles in this sector hence the envisioned law from this bill will greatly strengthen the provision of services by social workers which in turn will consolidate the overall focus of the Kenya Vision 2030. The bill takes into consideration the importance of a strong social welfare service provision in Kenya.
  - (iii) In addition, all the flagship projects in the big four agenda championed by His Excellency the president of the Republic of Kenya have some connection with social work and its contribution in National development. Social work is about empowering communities to articulate their issues and needs; it is about creating conducive opportunities that will enable the nation to realise its dreams.
  - (iv) We cannot therefore, have stable manufacturing without addressing the social welfare needs of the workers and their families. We cannot have sustainable food security

without organising our communities and eradicating the long held notion that agriculture and other means of food production is the domain of a few, namely agrarian communities. We cannot have universal health coverage without involving social work professionals who are well prepared to handle the social aspects of illness without which healing is a pipedream. In essence therefore, the big four agenda among many other development initiatives have a central place for social work professionals for their maximum realisation.

- (v) Social work education and training in Kenya has grown tremendously since independence. Several public and private universities today offer undergraduate and post graduate social work training programmes. Graduates from these training programmes constitute the social service workforce in Kenya. The bill will help regulate the provision of social work services which have for long been provided in a disjointed manner despite the existing sound social work training programmes
- (vi) Some specific roles of social workers include ; program officers, researchers, counsellors, social welfare officers, social planners, extension workers, community mobilizers, gender mainstreaming advocates, rehabilitation specialists, probation and alternative correctional officers, child welfare officers. They also work in medical and psychiatric settings as medical social workers and mental health care workers. The bill will help regulate social work practice in these areas, many of which have been infiltrated by personnel without requisite training in social work and social service. With this in place, then the social service workforce in both public and private sector will improve tremendously alongside the social service beneficiaries.
- (vii) Professionalized social work services in the social service sector will now be prioritized, enhanced and ensured once the bill becomes law. Social workers rendering these services will be required to operate in conformity with the values of their profession and the ethical standards therein. If put in place, then the value and quality of service provided will improve and the dignity of the clients served enhanced. This will also provide sound service ethos in the social service sector just as it happens in other professional services like engineering, human resource, law, medicine etc.
- (viii) A major outcome of the bill is that it will provide the government, through the line ministries where social work services are provided, with tangible indicators for performance contracting of their staff in the social service sector. The specified sections in the bill for additional training for those wishing to serve as social workers is an important provision for staff development of social service professionals in Kenya. This will therefore make the staff more accountable and provide clear measures to streamline social service provision in Kenya.
- (ix) Equally important in this is the fact that with the passing of this Bill, social work services in Kenya will now be more acceptable and respected just as it happens in other countries that have social work act in place like the USA, Zimbabwe, South Africa among others.

- (x) The Bill will also bring order and provide tangible mechanisms to address cases of indiscipline or misconduct among some in the social welfare workforce. The regulations in place and the structures specified in the Bill to address such cases will in turn ensure that social welfare services by social workers are rendered in a highly professionalised manner. This, by extension, will enhance discipline and commitment of social welfare staff in the civil service and in the private sector.
- (xi) Social workers are key agents of change in Kenya's devolved governance structure with regard to the implementation of government social and welfare policies at the national level and in county governments where they serve as community development officers and mobilizers, social protection officers, social development officers.
- (xii) The Social Work profession in Kenya can thrive better if it is regulated by law as is the case with other professions like law, medicine, engineering etc.
- (xiii) The Act will ensure that the contribution of Social Workers towards Kenya's socio-economic development is recognized through professional delivery of social services. Social workers will be empowered to effectively contribute to the government's development agenda and the social welfare obligations for the people of Kenya as specified in the 2010 Constitution of Kenya. The Act will also solidify the broad contributions of social workers in the social pillar of the Kenya vision 2030 and in the governments big four agenda. The Act will give the social work practitioners a stronger voice in the efforts towards the realization of the global sustainable development goals of which Kenya is a signatory and is committed to.
- (xiv) Through the Act, social work practitioners and consumers of social work services will be protected from unethical and incompetent personnel who have over the years undertaken social work responsibilities with negative effects on social work clientele.
- (xv) Social work practitioners will be well regulated in terms of training and practice and will be able to have their practice entitlements like licensing and proper registration in line with the global trends for social work profession.
- (xvi) Social work services will be accessed and/or delivered effectively and efficiently since clear ethical code of practice that governs professional social workers in their practice will be adhered to. Further, the title Social Work professional shall be protected and reserved to social work professionals with requisite training, and sound social work value base to offer professional services
- (xvii) Besides this, our tomorrow is to a great extent influenced by our children today. A society that neglects the welfare of her children is doomed. The welfare of children including their protection, family, heritage, education, medicare etc. are all better championed by social workers hence expressed his appreciation of the input given by Child Welfare Society of Kenya and other stakeholders including UNICEF;

- (xviii) He supported the Bill and the submissions made by the stakeholders present, i.e., KNASW, ASWEK and KEMSA and took a keen interest in building consensus among all stakeholders present in order to achieve the goal enhancement of professionalism among social work.

### **3.2 Submission by the Ministry of Health**

33. Dr. Susan Mochache, Principal Secretary, Ministry of Health, submitted a written Memorandum on the Bill as follows –

- (i) The medical social work cadre in the health sector forms part of the multidisciplinary team that provides frontline healthcare services to patients and their families to alleviate hardships that arise during diagnosis and management of illness.
- (ii) The government initiated the training of medical social workers in the early 1980s, whereby few officers were trained and absorbed in the ministry. The scheme of service for medical social work is domiciled and administered within the Ministry of Health for those working in the public sector, just like other healthcare professionals working under the Ministry of Health. Currently, the officers are trained at KMTC for diploma level to ensure quality training, professionalism, and skilled workforce on health facilities in the country. This recommendation for training in KMTC followed consultations by the Ministry, KMTC, Kenya Medical Social Workers Association and other relevant stakeholders. JKUAT trains those undertaking a Bachelor of Science (BSc) degree in Medical Social Work.
- (iii) Medical social workers form part of the multidisciplinary health care team that offers psychosocial services to patients and their families. They are, therefore, health care workers as recognized by the World Health Organisation and Ministry of Health. They are distinct in their training and professional practice. Medical social work training is a science-based and not arts-based course like generic social work training.
- (iv) Medical social workers generally work in hospital facilities and other healthcare-related settings to restore balance in the client's family and social life to help maintain or recover a patient's health or strengthen their ability to adapt or reintegrate into society.
- (v) In conclusion, Medical Social Workers are healthcare professionals and can only be adequately covered by specific laws and regulations governing them. Accordingly, there is a proposed Bill to cater for training, registration and licensing of medical social workers.

34. In response to specific clauses-

- (i) Under clause 2, the Cabinet Secretary responsible for implementation of the Act is the Cabinet Secretary responsible for social services and protection. Medical social workers serve under the Cabinet Secretary for Health matters;
- (ii) Under clause 6, the inclusion of the PS for health was opposed as medical social workers are part of healthcare professionals and should not be included with those covered in the Bill.

### 3.3 Submission by the Ministry of Interior and Coordination of National Government

35. The Principal Secretary for the State Department for Correctional Services in the Ministry of Interior and Coordination of National Government submitted a written Memorandum on the Bill as follows –

- (i) The Bill touches on the mandate of the State Department for Correctional Services regarding containment, rehabilitation, treatment and reintegration of offenders which generally employs social work principles. Further, Prison and Probation Officers who have sociology or social work educational or work background hence the Bill is relevant to them. Currently, staff entering probation practice are university graduates trained in the areas of social work, social psychology and counselling, criminology and sociology.
- (ii) Amend the long title to read “*to provide for social work professionals, establishment of the institute of social work, social work professional board, regulation and registration of standards and practice of social work professionals and for connected purposes*”. This is because the main subject of the Bill is the regulation of social work professionals and it should therefore be predominantly provided for as the premise of the Act. Providing examination on the long title leaves out other examination bodies like KNEC and colleges which provide social work education.
- (iii) Amend the short title to read “Social Work Professionals Act” as the Institute is just one of the structures for management and certification of social workers.
- (iv) The definition of Cabinet Secretary may be reconsidered to read, “Cabinet Secretary responsible for matters of labour or matters of social work”. It is important to avoid mentioning the name of the ministry as these names change. Further the word “protection” may be construed to mean “security” yet the bill concerns social work and not social security
- (v) In the definition of “Social Work” the word “health, education or social work” may be deleted. As it is the definition leaves out many social workers in the criminal justice and corrections system, community development and others who may be affected by the provisions of the Bill. Social work may be defined as  
*“the assessment, diagnosis, treatment and evaluation of individual interpersonal and societal issues through the use of social work knowledge skills, interventions and strategies to facilitate the achievement of optimum psychological functioning “*  
*or*  
*“the knowledge and professional practice of change interventions with individuals, groups, families and communities in order to improve their optimal human functioning and psychological wellbeing”*
- (vi) Social work professionals may also be defined as-

*“a professional who applies knowledge and technical skills on building. Competencies and supporting adults, children, families and communities in difficult circumstances to protect their rights and improve their wellbeing”*

- (vii) Clause 4(1) provides for the membership as “ a person who is registered under this Act shall be a member of the institute” and may be amended to read “ a person who is registered under this Act shall be recognized as a Social Work Professional”
- (viii) Clause 5(2) One of the functions of the institute is to regulate the practice, competence and professional conduct of social work professionals. There is need to insert a provision for coordination of county and national governments and other non-state actors with social workers. This is because it may be challenging to monitor a social worker in the criminal justice system such as probation service, prison or those in the county government without a coordination system
- (ix) Clause 6- it is important to amend the criteria of eligibility for the chair from 8 to 15 years, *one with a distinguished career as a social worker and one who meets the objects of chapter six of the constitution on leadership or to a level equivalent to that of the high-level government officials who are members of the council, that is principal secretaries.*

A person with about 15 years’ experience is assumed to have attained the requisite leadership competencies beyond professional courses and has attained managerial positions has capacity to handle high level assignment hence capable of handling the members of the committee. Having a distinguished career in the field of social work ensures familiarity with the subject and ease of decision making.
- (x) Clauses, 5,6 and 17 should be harmonized with Mwongozo guidelines that establishment of Boards, Councils and committees to avoid duplicity
- (xi) Clause 7 on executive director does not have an eligibility or removal clause or any criteria for appointment of the Director. Experience of 10 years may be considered and a removal clause prevents perpetual occupancy of the office. It is also a check and balance mechanism to promote good governance, defining social work professionals will strengthen the purpose of the Bill and address the entire spectrum of social work holistically.
- (xii) Clause 10 on delegation of functions may be reconsidered to reduce the power of delegation to a reasonable latitude that is depending on the relevance of the function power or duty. Checks and balances with clear grounds in delegation of powers avoids abuse of power. Some functions or duties may be done by a committee or a person of competence but the delegation cannot be generalized.
- (xiii) Clause 15 may be amended by removing the aspect of a body corporate since the board shall be under the institute which is also a body corporate. Multiple body corporates introduce independence that may be a source of conflict yet one can be incorporate in the other.
- (xiv) Clause 16 remove the word “candidate” appearing after “issue” to create clarity as the awards should only be for academic performance not professionalism.

- (xv) Under clause 17, the government is the biggest employer of social workers and it should therefore be included in the membership registration committee.
- (xvi) In Clause 18 the KICD and KNEC should be included in approval of the curriculum or syllabus of any institution offering social work training at any level. Research course should be deleted as it should not be a substitute for course areas or levels of certification.
- (xvii) Clause 20 should be cross-referenced with the companies Act to ensure the provisions relate to registration and establishment of companies. Further, an insertion of the word “work” after social to correct the typographical error.
- (xviii) Under clause 23(c) and the words “ or criminal offence deemed by the registration committee to conflict with the practice of social work or if that offence was of personal nature and committed against a client. This is to disqualify a person whose transgressions conflict with the social work practice and not generally all offences.
- (xix) Clause 28(1) needs further discussion to address social workers who are public servants. All social workers in the country will be required to have a practicing certificate. Would it apply to those in the public service or probation service also?
- (xx) Clause 28(7) needs to be amended to incorporate a default clause in case the fine is not met e.g., in default when the fine is not met that is may serve a term not exceeding one year
- (xxi) Clauses 29,30 and 31 need to be harmonized with HR manuals and also insert a clause on code of conduct “registered members and the employees of the social work profession shall subscribe to the code of conduct set out in the schedule
- (xxii) Clause 32 on disciplinary committee- add paragraph (f) that the member undertakes training at his own cost and at such institutions as may be determined.

### **3.4 Submission by the Ministry of Labour and Social Protection**

36. The Cabinet Secretary, Ministry of Labour and Social Protection made the following submissions regarding the Bill –

- i) The Ministry supports the Bill.
- ii) The Ministry embarked on a journey to strengthen Child Protection Social Workforce which envisages a well-trained and empowered child protection workforce regulated through a professional body.
- iii) There’s already in place a curriculum anchored at the Kenya School of Government (KSG) through a Memorandum of Understanding between the State Department for Social Protection and the KSG. All children officers employed by the Ministry and child protection practitioners working in the Civil Society undergo the training and to date, 90 persons have undergone training.

- iv) The proposed Institute of Social Work Professionals Bill is timely and is an opportunity to professionalize social work and the welfare sector. Those who handle children matters should be licensed like other professionals to ensure high professional and ethical standards are maintained.

37. The Ministry made the following proposals –

- i) To capture the children sector as a key area for social work practitioners, Clause 6(d) should be amended to read-

*“the Principal Secretary for the time being responsible for matters relating to social welfare, children, the elderly and vulnerable persons or a representative designated in writing by the Principal Secretary”*

- ii) The KSG course taken by Child Practitioners may be entrenched in the law or accompanying regulations.
- iii) The criteria for membership should be widened to include social work-related courses such as sociology, counselling psychology and those who have done some aspect of social work at postgraduate level. In this way the Bill can cater for many undertaking social welfare services.

- iv) Amend Clause 11 to read-

*“The members of the council shall be paid such fees, allowances and disbursement for expenses as per the relevant government circulars”*

- v) Clause 18(c) and (d) mentions a persons who shall be eligible for registration as a social work professional shall have undergone a prescribed certificate, diploma or research course but does not mention Masters degree holders. Those persons need to be mentioned alongside those with degrees and diplomas.

### **3.5 Submission by the Kenya National Association of Social Workers (KNASW)**

38. Mr. Charles Mbugua, the National Executive Member, Nairobi Branch Secretary and IFSW Representative at the United National appeared before the Committee on 19<sup>th</sup> March, 2021 to make the following submissions on behalf of KNASW –

- i) The Kenya National Association of Social Workers (KNASW) is the national body of all social workers in Kenya representing more than 15,000 practitioners of all cadres and from all corners of the Republic. It was first registered in 1965 as the Kenya Association of Social Workers but due to the growing needs and diversity of the services offered then, it was re-registered as an association in 1967 to cater for all the groups offering social welfare services. At that time, social welfare services were primarily spearheaded by foreign organizations, faith-based groups, embassies and networks inherited by the regime, among them was Oxfam, TEAR Fund, British Red Cross, and Bread for World among others.

- ii) The services offered then focused on refugees, rural urban migration issues, homelessness, poverty, vulnerable groups and health issues particularly focusing on child mortality. Around 1965, a school of social work had been established in Machakos funded by the Israeli government and focused on case work, group work and community work as the key methods and components of social work. After about 8 years, this institution was closed. By then, the Kenyan government was training probation officers at the Kenya Institute of Administration (KIA), a course which gave openings to a few social work trainees. Those who graduated alongside the government officers were issued with a “Certificate in Social Work” but could only be employed by their sponsors who were mainly NGOs and Faith-based groups. A few other tertiary training institutions such as Kabujoy School, Matuga Training Centre and Kaaga School sprung up and conducted training for some years. To date, several private and government institutions have come up with various general courses aimed at providing knowledge and skills for the delivery of social welfare services.
- iii) The social work profession has never been fully recognized by the Kenyan government and the training institutions fluid and fragmented approach to the development of the training curriculum is by itself an inhibition. Other setbacks include:
  - i) Majority of the trainers lack a full grasp of the ever-changing terrain;
  - ii) Lack of training materials (books);
  - iii) Trainers/academia also learn and train on the job;
  - iv) Lack of mechanism to harvest new experience and roll back into the curriculum;
  - v) Practitioners’ networks and exchanges exist through KNASW and surpass the academia who do not have a unifying body;
  - vi) Employers prefer those with specific training backgrounds and often get this from their “in house training”;
  - vii) Degree/ certificate students trained supervised by non-degree holders; and
  - viii) With no well-established platform for the trainers, it becomes difficult to regulate the training itself.
- iv) The Committee was also informed that KNASW had come up with a different approach to skills development and inclusivity which is supported by the fact that theory (training) and practice meet at the delivery and evaluation table where often independent partners, employers and service consumers assume the role of umpires. The approach had intensified practitioners’ networks which encompass all field cadres offering the diversified services, has the benefits of on-job training and offers specializing/ registering for specific job courses or units, hence boosting demand and employability- the parallel programs came in handy in support of this.
- v) The Association supports the Bill, despite the fact that the process leading to the drafting was not consultative or inclusive, hence the proposed amendments.
- vi) The Bill is about social work practice, training, employment, service delivery, and consumption of the services. It is not about terms of service.

- vii) With regard to the key stakeholders, the Association questioned the role of universities and tertiary institutions in the Bill, specifically their representation in the proposed “Council” or in the “Examination Board”. The practitioners’ body is KNASW with a structure, systems, network and history.
- viii) The employers are distinct legal entities.
- ix) The consumers are also legal entities who in most cases are defined at the point of receiving the services.
- x) The academia, educators and trainers need to cut their distinction from the training institutions. Are they educators by virtue of being employees of these institutions? What are the capacity, history and geographical spread of this entity?
- xi) The term “Professional” is alienating and excluding when dealing with various cadres with different skills, different training and academic levels. It is self-elating, the term used all over the world and across the social work family is a “worker”.

#### **Proposals by the KNASW**

- 39. In Clause 1, delete citation and amend the title of the Bill to read “the Social Work Bill” to reflect the contents of the Bill because the terms in the reference are not inclusive.
- 40. In Clause 2, insert the definition of Association as “the Kenya National Association of Social Workers” which is the registered umbrella body of social workers and has existed in Kenya for over 50yrs.
- 41. Further, delete the term “register” and replace it with the “register of members”; and the insert “register of schools, colleges and universities” being those that offer social work training because there is need to categorize, identify and also give options to the training institutions which will be affected by the bill.
- 42. As outlined in Clause 2(a) - (f) it is evident that the entities exist at the time of enactment hence under 6(a) Chairperson could be nominated by the entities.
- 43. In clause 3 (1), delete the term “institute” and substitute with the term “Board” because the term is more accommodating and reflects diversity of the stakeholders.
- 44. Avoiding the “Association” in Part 1 on Preliminary, and then bringing it in under Clause 42 was a major omission. It is unlikely that the process of enacting this Bill can be achieved without an active role of the Association.
- 45. In clause 6 on the Council of the Institute, delete “five” and substitute with “four who will be nominated by the Association and three by the training institutions” because the targeted stakeholders include social work practitioners, employers, service consumers on one hand and trainers on the other hence the increase for proportional representation.

46. In clause 6(c) there is a repeated mention of “social work professionals” who do not exist now but will exist after the enactment. Before then the National Association and the training institutions exist and the social work professionals will largely be drawn from these two sources. The National Association has within its practitioners the employers (NGOs, CBOs, FBOs and welfare institutions) and it is justifiable for the nomination slots be increased from 5 to 7 and the allocation be proportionate.
47. Under Clause 18(c)m what is this Institute? Did this proposal originate from the current institutions offering social work training in the country? Which are they? If they exist will they be responsible for the establishment of the institute and consequent examinations? What informed the singling out the units outlined in (a) to (j)? If indeed there are training institutions who have participated in the process of enacting this Bill, then their register (including those who will join later) should be an instrument to inform this Bill.
48. In Clause 24 on the Register of Professionals, the Association proposed two registers; one for Members and the other schools, colleges, universities. This will give effect to the purpose of this Bill in reference to the opening citation which is, to provide for training, examination, registration, regulation of syllabus and standards.
49. In Clause 42 which provides for the transitional provision, a provision be made that KNASW shall nominate a chairperson to act until the first elections are held under the Act.
50. The Kenya National Association of Social Workers is in support of the proposed roles under clause 42(1) and also proposed deletions and insertions under the same section.

### **3.6 Submission by the Association of Social Work Educators in Kenya (ASWEK)**

51. During a meeting held on 19<sup>th</sup> March, 2021, Dr. Wilkins Ndege Muhingi, on behalf of the Association of Social Work Educators in Kenya made oral submissions to the Committee as follows-
  - i) The definition of terms to include “Social Work Educator” to mean “A person who has undergone requisite professional training in social work and has capacity to impart knowledge and train”;
  - ii) There is need to establish a Social Work Education Board which will comprise of-
    - a. 1 representative from CUE;
    - b. 1 representative from TVET;
    - c. 3 social work educators’ representatives from key social work fields;
    - d. 1 representative from the Ministry of Education;
    - e. 1 social work practitioner nominated by KNASW;
  - iii) The functions of the Board will be to -
    - a. Provide oversight for social work educators’ career development training;

- b. Promote social work research and publication;
  - c. Advise on social work trainers' competence;
  - d. Advise on development of social work curricula;
  - e. Provide oversight for students' practicum procedures.
- iv) Other concerns with regard to the Bill include-
- a. Change of Bill's name.
  - b. Registration qualification to show the categories needed and the qualifications.
  - c. The Director's qualification should be a Master's degree with 5-year experiences.
  - d. The need to include a social work educator in the Examination Board.

### **3.7 Submission by the Kenya Medical Social Workers Association (KEMSWA)**

52. During a meeting held on 19<sup>th</sup> March, 2021 with the representatives from the Kenya Medical Social Workers Association, led by its patron, Mr. Tom Kangere, submitted THAT –
- i) The Kenya Medical Social Workers Association (KEMSWA) is a registered body serving the Professional interests of Medical Social Workers across the Republic of Kenya since 1989.
  - ii) KEMSWA is registered under the Society's Act (Registration Number 37002; in the year 1989). The training of Medical Social Workers and deployment of the same across health facilities in Kenya has been and continues to be done by the Ministry of Health since 1980.
  - iii) KEMSWA began the process of establishing a legal framework for the Training, Registration and Licensing of Medical Social Workers, to regulate their practice and to provide for the establishment of the Medical Social Workers Council of Kenya in 2018. Kenya Medical Social Workers (Training, Registration and Licensing) legislative proposal came out in 2019 sponsored by Hon. Vincent Kemosi MP for West Mugirango Constituency.
  - iv) Medical social workers are distinct in their training and professional practice. Currently Medical Social Workers train at Kenya Medical Training College (KMTC) at Diploma Level and Jomo Kenyatta University of Agriculture and Technology (JKUAT) at Degree level both of which are science based and not Art based. Therefore, Medical Social Workers are health care workers as recognized by Ministry of Health and the World Health Organization (WHO). Among other core courses distinct to medical social work includes anatomy and physiology, pharmacology, common diseases, psychopathology, mental health, biochemistry and health project management;
  - v) Medical social workers directly work with patients in health care settings and their practice is over sighted by the Ministry of Health through Kenya Health Professions Oversight Authority (KHPOA) which is the regulator in matters of health.;

- vi) The Scheme of Service for medical social workers is domiciled and administered within the ministry of health for those working in the public sector. Therefore, Medical Social Workers are not part of and should not be construed as being covered by the said Bill;
- vii) The pleading of KEMSWA is that the aforementioned Bill to exclude Medical Social Workers. KEMSWA prays that the title states as follows; *An Act of parliament to provide for the establishment of the institute of social work and the social work professionals board; to provide for the examination, registration and regulation of the standards and practice of social work professionals and for connected purposes excluding Medical Social Workers;*
- viii) The recognized Cabinet Secretary in Part I on Preliminary, Clause 2 is the Cabinet Secretary responsible for matters relating to Social Services and Protection following which Medical Social Workers are excluded since they serve under the Cabinet Secretary responsible for matters relating to health;
- ix) In November 2019 the Kenya Medical Workers Association did a justification through Hon. Vincent Kemosi to the relevant Parliamentary Committee explaining why medical social work is a distinct health profession and cadre which is part and parcel of the larger health workforce. Therefore, that being the case, the Kenya Medical Social Workers Association has reservations to the inclusion of the Principal Secretary for Health being a member of the Council of the Institute of Social Work Professionals hence requesting the name expunged from the proposed National Assembly Bill No. 32 of 2020;
- x) The memorandum roots for the uniqueness of medical social work as a health profession and therefore can only be adequately covered by a specific law. Having read the bill in question we find that it does not address the medical social work profession. Therefore, it is our prayer that Medical Social Workers proposed bill (Training, Registration and Licensing) be tabled in parliament and treated with due considerations as a stand-alone bill neither affected by nor affecting the Institute of Social Work professionals' gazetted Bill.
- xi) Additionally, the representatives from KEMSWA outlined the position of medical social work in health as follows-
  - a) **Health**, as defined by the WHO, is a complete state of physical, mental, social and spiritual wellbeing of an individual and not merely the absence of disease or infirmity.
  - b) **Medical science** has in the past given emphasis on the cause of disease, pathogenesis and control of the same, ignoring the importance of "the diseased person".
  - c) **Dr. George Engle (1977)** emphasized that the biomedical approach for disease is flawed because the disease does not contribute to illness, instead, the individual's mind

(psychological and social factors) plays significant role in how an illness is caused and how it is treated.

- d) **Holistic approach** in managing disease is to have every professionally trained person to handle the aspects of disease they are well trained in.
- e) **Medical social worker** apart from being a social scientist through training in psychology, sociology, anthropology, communication and social work skills is also trained in Bio-psychological theoretical (Biological, psychological and environmental) methods of assessment to reach diagnosis and treatment and planning interventions for holistic treatment and rehabilitation of patients. By the very nature of the training and work setting s/he is more inclined to science blending it with arts. The institutions which have taken to offer this course are science based and require students with science background to undertake the training as in the case of KMTC and JKUAT.

#### **Who do Medical Social Workers (MSWs) work with/serve?**

- i) MSWs work with patients and their families in assisting articulate psychological and environmental issues that may be affecting diagnosis, treatment and recovery from disease.
- ii) MSWs work with other health (Inter-disciplinary Team) care providers to enable patients deal effectively with their intra and inter personal problems.
- iii) MSWs also work very closely with other community based social welfare agencies through networking, collaboration and referrals to facilitate the patient to acquire what cannot otherwise be provided within the hospital settings.
- iv) MSWs counsel patients and their families to come to terms with the illnesses.
- v) MSWs inform patients' families of prognosis of ailments and their participation in the management of patients' sickness consequently reducing anxiety, stigma and increasing general acceptance of patients back to their families and communities.
- vi) MSWs follow up services (after-care) thereby linking the health facilities to the families and communities of the patient and this ensures the patients comply with treatment as per recommended prescriptions. These approaches reduce relapses especially in psychiatric patients and defaulter rates in other chronic conditions.
- vii) MSWs conduct outreach services which are intended to educate the public to enhance their knowledge of biomedical social problems they may interact with to provide prevention, protection and necessary-in-time referrals.
- xi) These roles and functions make MSWs a distinct and functionally different from other generic social workers.

### 3.8 Submission by the Child Welfare Society of Kenya

53. Ms. Irene Mureithi, Managing Trustee of the Child Welfare Society of Kenya appeared before the Committee on 1<sup>st</sup> September, 2021 to make submissions on the Bill. She made the following proposals to the Committee –

No	Proposed Amendments	Justification
	<p>That the Bill be amended by inserting: -</p> <p>Second Schedule- THE INSTITUTE; and</p> <p>Third Schedule- THE COUNCIL immediately after the First Schedule under the ARRANGEMENT OF CLAUSES</p>	<p>To provide for election of the chairperson and members of the Council and conduct of business of the council including holding of annual general meetings of the institute.</p> <p>The current Bill has no provision for conduct of general meetings, appointment of Chairperson and members to the Council. The Bill under Clause 6 provides for the election of the Chairperson and 5 other members to be elected in the manner prescribed by the regulations which are not in place hence may cause delay in the constitution of the Council. The best practice in similar institutions is that election of chairperson and members is provided for in the Act under the Schedule. Example, The Accountants Act</p>
	<p>That the Bill be amended by deleting the short title and substituting with the title “Social Workers Professionals Act, 2020”</p>	<p>The main object of this bill is to regulate social work profession in Kenya therefore, the short title should reflect the social work profession rather than the Institute.</p> <p>The Best practice from other professions is to focus on the profession rather than the institute. Hence the need to amend to reflect the best practices.</p>
	<p>That Clause 2 of the Bill be amended-by inserting the following:</p> <p>“social worker” means a person registered pursuant to this Act to practice social work in Kenya.</p>	<p>The amendment is to provide for interpretation of the term “Social Worker” in the bill.</p>
	<p>That the bill be amended by deleting clause 4 and inserting the following new Clause;</p> <p>4. “A person who is registered under this Act shall be a member of the Institute”</p>	<p>The bill provides for various categories of membership which include fellows, associates, registered members and other persons whom the council may consider qualified to be registered as members of the Institute. This, therefore, implies that persons who are not social workers by training (B.A Social Work Degree Holders) can be registered as</p>

No	Proposed Amendments	Justification
		<p>members of the Institute thus defeating the purpose of regulating social work profession in the country. Therefore, the need to amend the bill to provide for only qualified persons (B.A Social Work Degree Holders) be members of the Institute.</p> <p>The best practice from other professions is that only academically qualified persons are registered as professionals. Example, Engineers, Lawyers, Medical Doctors</p>
	<p>That the Bill be amended by deleting Clause 5 and substituting therefore with the following new Clause 5 as follows-;</p> <p><i>Functions of the Council</i></p> <p>5. (1) The Council in order to-</p> <p>Serve and protect the public interest;</p> <p>Preserve the integrity of the social-work profession; and</p> <p>Maintain public confidence in the ability of the social-work profession to regulate itself,</p> <p>The Council shall-</p> <p>Regulate the practice of social work through-</p> <p>The registration, licensing, professional conduct and other processes set out in this Act and the regulations,</p> <p>The approval and promotion of a code of ethics, and</p> <p>The development, approval and promotion of standards of practice, entry level competencies and continuing competency requirements;</p> <p>Subject to paragraph (d), and in the public interest, advance and promote the practice of social work;</p>	<p>The Bill under Clause 5 provides for the functions of the Institute. The amendment therefore under Clause 5 ensures that the functions of the Institute are placed with the appropriate body which is the Council. The council is the governing body of the Institute; therefore, the right body to exercise the said functions.</p> <p>The amendments includes new paragraphs - (a) to (q). These new paragraphs expound on the functions of the Council and also provide clarity on the functions in regulating the profession by ensuring that the integrity of the profession is preserved through code of ethics, standards of practice, examination among others. In addition, the amendment also provides for comprehensive and detailed functions of the Council.</p>

No	Proposed Amendments	Justification
	<p>Encourage members to participate in affairs promoting the practice of social work, in the best interest of the public;</p> <p>Advocate for the development, enhancement and promotion of policies to improve social conditions and promote social justice;</p> <p>Prescribe the initial and continuing educational, proficiency and other qualifications for registration;</p> <p>Examine applicants and judge entitlement to registration;</p> <p>Provide investigation of complaints and for the discipline of social workers in accordance with this Act and the regulations;</p> <p>Enter into agreements or other arrangements with the governing bodies that regulate the practice of social work in other jurisdictions to provide for the inter jurisdictional practice of social workers and the continuation of control and regulation over the practice of social work;</p> <p>plan, arrange, co-ordinate and oversee continuing professional training and development and facilitate internship of trainee social workers;</p> <p>collaborate with training institutions, professional associations, professional organizations and other relevant bodies in matters relating to training and professional development of social workers;</p> <p>determine the fees to be charged by professional social workers and firms for professional services rendered from time to time;</p> <p>establish a system of professional supervision of social workers and the appointment of supervisors for that purpose;</p> <p>upon request, facilitate arbitration or mediation in any disputes between a licensed Social Worker and a client;</p>	

No	Proposed Amendments	Justification
	<p>represent, protect and assist social workers in respect of conditions of practice and otherwise;</p> <p>promote research in social work practice and related matters;</p> <p>publish books, periodicals, journals and articles on social work;</p> <p>provide a medium for communication and exchange of information, knowledge and ethical standards for those persons engaged in the field of social work;</p> <p>advise the Examinations Board on matters relating to examination standards and policies;</p> <p>promote inter-professional collaboration with other professional bodies;</p> <p>prescribe the fees and other charges payable with respect to examinations by the Examination Board;</p> <p>issue certificates to candidates who have satisfied examination requirements; and</p> <p>carry out any other functions prescribed for it under any of the provisions of this Act or under any written law.</p> <p>(2) The Council may appoint such committees or panels as may be necessary to perform its functions under this Act</p> <p>(3) the Council may delegate the powers and duties of the Council, as specified in the delegation, to a committee, panel, or a member of the Council</p>	<p>Sub Clause (2) is a new provision which provide for the Council to appoint committees or panels for performance of its functions.</p> <p>Sub Clause (3) is a new provision which provides for delegation of the powers and duties of the Council.</p>
	<p>That the Bill be amended by deleting Clause 6 and substituting therefore with the following new Clause 6 as follows-;</p> <p>6(1) The management of the Institute shall vest in a Council comprising-</p>	<p>The amendment to Clause 6 is to comply with the proposed amendment to the Bill which introduce the Second and Third Schedule that provides for the process of election of a Chairperson and the six members under paragraph (d) to the Council.</p> <p>The Second Schedule under Paragraph (1) provides that the Chairperson of the Council shall be elected</p>

No	Proposed Amendments	Justification
	<p>a chairperson elected in the manner provided in paragraph 1 of the Second Schedule;</p> <p>the Principal Secretary of the Ministry responsible for matters relating to social welfare or a representative designated in writing by the Principal Secretary;</p> <p>one person nominated to represent the Commission for university Education;</p> <p>Six other members elected in the manner provided in the Third Schedule who shall be social workers; and</p> <p>the Executive Director, as an ex officio.</p> <p>(2) “the Chairperson and or a member elected under Sub section (1) (a), (c) and (d) shall hold office for a period of three years and may be eligible for re-election for a further and final term of three years.</p> <p>3) A member seeking election as chairperson or a member shall be a person who—</p> <p>Is a Kenyan;</p> <p>holds at least a Bachelor’s Degree in Social Work from a recognized university in Kenya;</p> <p>has at least 10 years of experience in social work practice;</p> <p>meets the requirements of Chapter Six of the Constitution;</p> <p>is a registered member of the Institute; and</p> <p>has not been disqualified under the provisions of the Third Schedule.</p>	<p>by members of the Institute during the Annual General Meeting of the Institute.</p> <p>The Third Schedule under Paragraph (1) provides that each of the six members of the Council shall be elected by members during the Annual General Meeting of the Institute.</p> <p>Clause 6 is further amended by deleting paragraphs (b) and (c) which provides for representation by the PSs of the State Department of Health and State Department of Correctional Services. The best practice is to provide for the Ps responsible for the matter concerned (in this case, Social services) and co-opt other persons on case-to-case basis during Council meetings.</p> <p>These amendments ensure that the Chairperson and the six members under paragraph (d) are registered social workers and elected by the members of the institute as per the Second and Third Schedule.</p> <p>The amendment also provides for a representative of Commission for University Education which is a key stakeholder in development and accreditation of social work programs at the universities.</p> <p>Sub clause (2) and (3) provide for term of office for the chairperson and members of the Institute and their qualifications.</p>
	<p>That Clause 15 of the bill be amended: -</p> <p>by deleting sub clause (2)</p>	<p>The amendment under sub clause (2) removes the body corporate status of the examination Board. The reason for this amendment is that examination is a function of the Council and therefore cannot be an independent function from other functions of the Council. Also, it is best practice that professional</p>

No	Proposed Amendments	Justification
	<p>in sub clause (3) by deleting paragraph (a) and inserting a new paragraph (a) as follows-</p> <p>(a) “four social work professionals appointed by the Council who represent the diversity of various fields of social work practice and who reflect the gender, racial and ethnic composition of Kenya, one of whom is teaching at University offering social work,</p> <p>By inserting a new paragraph (e) to read as follows-</p> <p>(e) “the Council shall appoint a chairperson of the Board among the members under sub section (3) (a)”.</p> <p>by inserting a new sub clause (5) as follows-</p> <p>(5) “the Board shall regulate its own meetings”</p>	<p>examinations are conducted in accordance with the standards and regulations by the governing body.</p> <p>The amendment under Sub clause (3) paragraph (a) provides clarity of persons to be appointed as members of the examination Board who must be social workers and who reflect the gender, racial and ethnic composition in conformity with the Constitution.</p> <p>The new paragraph (e) provides for appointment of the chairperson of the board of examination.</p> <p>The new Sub Clause (5) provides for how the Board shall conduct its affairs</p>
	<p>That the Bill is amended by-</p> <p>deleting Clause 16 and substituting with a new Clause 16 as follows-</p> <p>16. “the Board shall examine persons seeking to be registered as social workers.”</p> <p>Inserting a new Clause 16A immediately after Clause 16 as follows-</p> <p>Remuneration of the Examination Board Members</p> <p>16A. the members of the Examination Board shall be paid such, fees, allowances and disbursements for expenses as may be determined by the Council.</p>	<p>The Examination Board only function is to conduct examination on behalf of the council and therefore the amendment to Clause 16 is meant to reflect the same.</p> <p>The functions under Clause 16 are functions by the Council being the governing body of the Institute. The said functions have been restructured and moved to Clause 5 as functions of the Council.</p> <p>Clause 16A is a new provision to provide for remuneration of the members of the examination board.</p>
	<p>That the Bill is amended by deleting Clause 17</p>	<p>The Council is responsible for registration of members of the Institute and can carry out the function of registration through delegation of the</p>

No	Proposed Amendments	Justification
		function to a committee of the Council in accordance with Clause 5 (2) and (3) hence the amendment by deleting Clause 17. The Council can therefore constitute a Registration Committee and assign it functions as it deem fit.
	<p>That the Bill is amended by deleting Clause 18 and substituting with a new Clause 18 as follows-</p> <p>18. Subject to the provisions of this Act, a person shall be eligible to be registered as a social work professional if such a person-</p> <ul style="list-style-type: none"> <li>(a) has obtained a bachelor's degree in social work from a recognized university in Kenya;</li> <li>(b) has, subsequent to obtaining the degree, completed at least two years of experience under a registered social worker that in the opinion of the Council, demonstrates competence in the field of social work,</li> <li>(c) has passed the examinations required by the Council,</li> <li>(d) is of good conduct and</li> <li>(e) has paid the prescribed fees.</li> </ul>	<p>The Bill under Clause 18 paragraph (c) and (d) provides for persons who are holders of certificates, diplomas and degrees from other fields to be registered as social work professionals as long as they have done the prescribed examinations by the Institute. This negates the purpose for the regulation of social work profession.</p> <p>The proposed amendment provides that only persons who are holders of a B.A Social work degree are registered as social work professionals. This is the practice by most professions within Kenya and other jurisdictions i.e., engineers, lawyers among others.</p>
	<p>That Clause 19 of the Bill is amended by inserting new sub clause (2) and (3) as follows-</p> <p>(2) The Council shall inform the applicant, in writing, of its refusal to register the applicant.</p> <p>(3) A person whose application for registration has been rejected may appeal to the Council.</p>	The amendment is to provide for the process of communication by the Council to an applicant in case the application is not approved for registration.
	That Clause 20 of the Bill is amended by deleting paragraph (b) and substituting thereof with the following new paragraph-	The amendment is to ensure that only registered and licensed social workers operate social work firm. This is the case in other professions e.g., law firms.

No	Proposed Amendments	Justification
	(b) “the firm has shareholders who are registered as social work professional and have valid practicing certificates”.	
	That Clause 21 of the Bill is amended by deleting the expression “Registration Committee” and replace with “Council”	The amendment aligns the Clause with the functions of the Council.
	That Clause 22 is amended by deleting the expression “Registration Committee” and replace with “Council”	The amendment aligns the Clause with the functions of the Council.
	That Clause 23 is amended by deleting the expression “Registration Committee” and substituting with “Council”	The amendment aligns the Clause with the functions of the Council.
	That Clause 28 is amended by deleting the expression “Registration Committee” and substituting with “Council”	The amendment aligns the Clause with the functions of the Council.
	<p>That Clause 41 (2) of the Bill is amended by deleting paragraph (a) and substituting thereof with the following new paragraph-</p> <p>(a)the courses of study to be pursued by candidates in order to satisfy the professional requirements of registration;</p> <p>(b) the proofs to be furnished as to education, good character and experience;</p> <p>(c)the subjects for examination of candidates for registration as social workers;</p> <p>(d) duties and functions of examiners;</p> <p>(e) matters relating to applications, complaints or discipline;</p> <p>Amend by renumbering from paragraph (b) to (g)</p>	<p>The amendment to paragraph (a) is meant to provide clarity on areas which the Council can regulate on i.e., courses of study to be pursued by candidates who seek to be registered as social workers professionals. Further the Council cannot regulate academic programs as provided for under paragraph (a)of the Bill as the same is a function of the Commission for University Education hence the amendment.</p> <p>The Council is also mandated under its functions to advise the Examination Board on professional courses hence the need to provide for development of regulations which address this requirement i.e., regulations on courses of study, duties and functions of examiners, subjects for examination among others.</p>

No	Proposed Amendments	Justification
	<p>That the Bill is amended by deleting Clause 42 and substituting with a new Clause 42 as follows:-</p> <p>The Cabinet Secretary for the time being responsible for matters relating to social services and protection shall at the commencement of this Act appoint an interim Council in accordance with Section 6.</p> <p>The members appointed under subsection (1) shall remain in office until the first election of the members of the Council under Section 6 are conducted.</p> <p>Notwithstanding the provisions under Section 18 of this Act: -</p> <p>Any person immediately before the commencement of this Act who was engaged in social work practice shall within two years after the commencement of this Act apply for registration under this Act.</p> <p>After the expiry of twenty-four months after the commencement of the Act no person may carry on business or hold himself/herself out as being a social worker except in compliance with this Act.</p>	<p>The objective of this Act is to promote the Social Work Profession in Kenya and thus the need to guide the Cabinet Secretary in appointment of the interim Council which should reflect the spirit under Clause 6 and ensure that the interim Council is inclusive as envisaged under this Act.</p> <p>It is limiting to have the National Executive Council of the Kenya National Association of Social Workers as an Interim Council for the Institute under this Act. The National Executive Council of the Kenya National Association of Social Workers are members of the Council of the Institute among other members.</p> <p>The new sub clause (3) provides for transitional registration of Social Workers under this Act.</p> <p>The two-year period is to provide adequate time for transition to registration under this Act.</p> <p>Sub-clause (4) is deleted since academic requirements for curriculum development is a function for Commission of University Education.</p> <p>Academic requirements for curriculum development is a function for Commission of University Education</p> <p>The council is only supposed to provide for professional requirement for the development of curriculum and thus a function of the Council.</p>
	<p>That the Bill is amended by inserting the Second and Third Schedule immediately after the First Schedule as follows: -</p> <p>SECOND SCHEDULE</p> <p>(Sections 3,6.)</p> <p>THE INSTITUTE</p> <p>Chairperson of the Institute</p> <p>1. (1) The Chairperson shall be elected during the annual</p>	<p>To provide for election of the chairperson and members of the Council and conduct of business of the council including holding of annual general meetings of the institute.</p> <p>The current Bill has no provision for conduct of general meetings, appointment of Chairperson and members to the Council. The Bill under Clause 6 provides for the election of the Chairperson and 5 other members to be elected in the manner prescribed by the regulations which are not in place hence may cause delay in the constitution of the Council. The best practice in similar institutions is that election of chairperson and members is provided</p>

No	Proposed Amendments	Justification
	<p>(2) Unless he or she earlier vacates the office, a person elected to the office of Chairperson shall hold the office until another Chairperson is elected.</p> <p>(3) A person elected as Chairperson in Subsection (1) shall hold office for a period of three years and may be eligible for a further and final term of three years.</p> <p>(4) A person who holds the office of Chairperson may resign from the office by writing under his hand delivered to the Council.</p> <p>Meetings of the Institute</p> <p>2. Subject to paragraph 3 of this Schedule, an Annual General Meeting of the Institute shall be held not later than six months after the end of each year.</p> <p>3. A special general meeting of the Institute—</p> <p>(a) may be held at any time; and</p> <p>(b) be held on a written request made to the Council and signed by not less than an eighth of members of the Institute.</p> <p>4. (1) A meeting of the Institute shall be convened by the Council by giving to every member of the Institute a written notice—</p> <p>(a) stating the place and time of the meeting; and</p> <p>(b) indicating the business which it is proposed to transact at the meeting, which shall include, among other matters, the presentation of the following—</p> <p>(i) a report by the Council covering the past year;</p> <p>(ii) financial statements and the auditor's report thereon;</p> <p>(iii) election of the Chairperson and</p>	<p>for in the Act under the Schedule. Example, The Accountants Act</p> <p>may resign from the office by writing under his hand delivered to the Council.</p> <p>General Meeting of the Institute shall be held not later than six months after the end of each year.</p> <p>to the Council and signed by not less than an eighth of members of the Institute.</p>

No	Proposed Amendments	Justification
	<p style="text-align: center;">Council members; and</p> <p style="text-align: center;">(iv) the appointment of the auditor.</p> <p>(2) Notice of a meeting shall be given not less than fourteen days before the date on which it is to be held to each member of the Institute by posting the notice to the address of the member last known to the Institute, or by handing the notice to the member in person.</p> <p>(3) The validity of any proceedings of the Institute shall not be affected by any failure to comply with the requirement of sub-paragraph (2) of this paragraph unless it is proved that the failure to comply in relation to any member was a deliberate failure.</p> <p>5. (1) The Chairperson shall preside at all meetings of the Institute at which he is present.</p> <p>(2) At a meeting of the Institute at which the Chairperson is not present, the Vice- Chairperson shall preside.</p> <p>(3) At a meeting of the Institute at which neither the Chairperson nor the Vice- Chairperson are present, the members of the Institute present</p>	

No	Proposed Amendments	Justification
	<p>shall elect one of their members to preside.</p> <p>6. (1) Subject to this paragraph, the quorum at a meeting of the Institute shall be an eighth of members.</p> <p>(2) Where a general meeting of the Institute is convened—</p> <p>(a) otherwise, than pursuant to paragraph 4(b) of this Schedule, and a quorum is not present when the meeting proceeds to business, the meeting shall stand adjourned until the same day on the following week, at the same time and place, and if a quorum is not present at or within fifteen minutes after that time, the members present shall constitute a quorum; or</p> <p>(b) pursuant to paragraph 4(b) of this Schedule, and a quorum is not present when the meeting proceeds to business the meeting shall be dissolved.</p> <p>7. (1) No business shall be transacted at a meeting of the Institute unless—</p> <p>(a) the business is indicated in the notice of the meeting as business which it is proposed to transact; or</p> <p>(b) in the case of business not so indicated, the meeting decides to</p>	

No	Proposed Amendments	Justification
	<p>transact the business and the person presiding at the meeting agrees to the transaction of the business.</p> <p>(2) Minutes of the proceedings at meetings of the Institute shall be kept in such a manner as the Chairperson or in his absence the person presiding at a particular meeting, directs.</p> <p>8. The person presiding at a meeting of the Institute may adjourn the meeting from time to time and from place to place, with the consent of the meeting.</p> <p>9. The person presiding at a meeting of the Institute may in his discretion limit the number of persons permitted to speak in favour of or against any motion and the time any such person may so speak.</p> <p>10. (1) Questions arising at a meeting shall be determined by a majority of the members of the Institute voting on the question.</p> <p>(2) Voting on any question shall be by a show of hands or such other procedure as may be prescribed in by-laws or regulations published under the provisions of this Act.</p> <p>(3) Where a ballot is held, voting may be either done personally or by written proxy.</p> <p>(4) An instrument appointing a proxy shall be in writing and shall be</p>	

No	Proposed Amendments	Justification
	<p>deposited with the Secretary to the Council not less than forty-eight hours before the meeting of the Institute at which it is to be used.</p> <p>(5) A proxy to be used in any ballot at any meeting may be used at the meeting or, if the meeting is adjourned, in any ballot when the meeting is resumed after the adjournment but the holding of a proxy shall not be counted towards the quorum at any stage of any meeting.</p> <p>(6) The person presiding at a meeting of the Institute has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.</p> <p>(7) A declaration by the person presiding at a meeting of the Institute that a resolution has or has not been carried and an entry to that effect in the minutes of the meeting is evidence of that fact.</p> <p>_____</p> <p>THIRD SCHEDULE [Sections 6 (2), 11.]</p> <p>THE COUNCIL</p> <p>Members of the Council</p> <p>1) Each of the Six members of the Council (one of whom shall be the Vice- Chairperson) referred to in Section 6 (g) of this Act shall be elected at an Annual General Meeting of the Institute.</p>	

No	Proposed Amendments	Justification
	<p>(2) Subject to paragraph 2 of this Schedule, a member of the Council—</p> <p>(a) elected pursuant to sub-paragraph (1);</p> <p>(b) appointed pursuant to Section 6 (b) and (c) of this Act; or</p> <p>(c) co-opted pursuant to sub-paragraph (4),</p> <p>shall hold office for the prescribed period unless he earlier ceases to hold office.</p> <p>(3) A member of the Institute shall be disqualified from contesting any position on the Council if within the preceding three years, such member—</p> <p>(a) has been found guilty of an act of professional misconduct under this Act, which in the opinion of the Council renders him or her unfit to hold the office;</p> <p>(b) has been convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine;</p> <p>(c) has been convicted of an offence involving corruption, dishonesty or abuse of office; or</p> <p>(d) has been adjudged bankrupt or has entered into a composition or</p>	

No	Proposed Amendments	Justification
	<p style="text-align: center;">scheme of arrangement with his creditors.</p> <p>(4) Subject to sub-paragraph (5), where a member of the Council (including a member co-opted pursuant to this sub-paragraph) ceases to hold office before the expiration of the prescribed period or otherwise than under the provisions of paragraph 2 of this Schedule (where applicable), the Council may co-opt a person to hold that office.</p> <p>(5) Sub-paragraph (4) does not apply to the members of the Council appointed pursuant to Section 6 (b) and (c) of this Act.</p> <p>(6) In this sub-paragraph, the “prescribed period” means—</p> <p>(a) in relation to a member referred to in sub-paragraph (2)(a), the period beginning with his or her election and ending at the commencement of the day on which the third annual general meeting after his election is to be held;</p> <p>(b) in relation to a member referred to in sub-paragraph (2)(b), the period of three years next following his appointment; or</p> <p>(c) in relation to a member referred to in sub-paragraph (2)(c), the period beginning with his being co-opted and ending at the commencement</p>	

No	Proposed Amendments	Justification
	<p>of the day on which the first annual general meeting after his being co-opted is to be held.</p> <p>Of the six members of the Council (including the Vice-Chairperson ) first elected by the Institute after the commencement of this Act—</p> <p>(a) two (identified by agreement of the members of the Council or by lot) shall cease to hold office at the commencement of the day on which the second annual general meeting of the Institute is to be held, save in the case of any such who earlier ceases to hold office;</p> <p>(b) two (so identified) shall cease to hold office at the commencement of the day on which the third annual general meeting of the Institute is to be held, save in the case of any such member who earlier ceases to hold office; and</p> <p>(c) the remaining two members shall cease to hold office at the commencement of the day on which the fourth annual general meeting of the Institute is to be held, save in the case of any such member who earlier ceases to hold office.</p> <p>3. Notwithstanding paragraph 2, the office of a member of the Council shall become vacant if such member—</p> <p>(a) resigns the office by writing under his hand delivered—</p> <p>(i) in the case of the members appointed pursuant to Section 6(b), and (c) to the Minister; or</p> <p>(ii) in the case of any other member, to the Council;</p> <p>(b) has the appointment revoked by the Minister in the case of the members appointed pursuant to Section 6 (b) and (c);</p> <p>(c) ceases to hold the office in the case of the members appointed pursuant to Section 6 (b) and (c);</p> <p>(d) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors; or</p>	

No	Proposed Amendments	Justification
	<p>(e) is absent without the permission of the Council from three or more consecutive ordinary meetings of the Council; or</p> <p>(f) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine; or</p> <p>(g) is found guilty of an act of professional misconduct under this Act, which in the opinion of the Council renders him unsuitable to continue to hold office; or</p> <p>h) becomes for any reason, including infirmity of body or mind, incompetent or incapable of performing the functions of his office.</p> <p>4.(1) Subject to paragraph 1(4) of this Schedule, where a member of the Council ceases to hold office, another member shall be elected to fill the vacancy at the annual general meeting of the Institute next following or shall be appointed as provided under Section 6 (b) and (c) of this Act, as the case may be.</p> <p>(2) A member of the Council who ceases to hold office other than under paragraph 3(b), (c), (d), (e) or (f) is eligible for re-election or re-appointment.</p> <p>Vice- Chairperson of the Council</p> <p>5. (1) There shall be a Vice- Chairperson of the Council who shall be elected by the Council from amongst the members of the Council elected under Section 6 (d) of this Act.</p> <p>(2) The Vice- Chairperson shall hold office for the period of one year immediately following his election to the office or, if he ceases to hold office as a member of the Council before then, until he so ceases to hold office.</p> <p>(3) Subject to paragraph 2 of the Second Schedule of this Act, the Vice- Chairperson may exercise and perform the functions of the Chairperson if the Chairperson is unable to exercise and perform those functions.</p> <p>Proceedings</p>	

No	Proposed Amendments	Justification
	<p>6. The quorum at meetings, of the Council and the arrangements relating to meetings of the Council shall be such as the Council may determine.</p> <p>7. The person presiding at a meeting of the Council has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.</p> <p>8. Minutes of the proceedings of the Council shall be kept in such manner as the Council directs, and, on the written request of the Cabinet, shall be made available to him or any person nominated by him.</p>	

### 3.9 Submission by UNICEF (KENYA)

54. The United Nations International Children's Emergency Fund (UNICEF) submitted written submissions dated 3<sup>rd</sup> March, 2021 as follows –
55. The United Nations International Children's Emergency Fund (UNICEF) is mandated by the United Nations General Assembly to advocate for the protection of children's rights, help meet their basic needs and expand their opportunities to reach their full potential. Its work is guided by the Convention on the Rights of the Child which is ratified by Kenya hence it strives to promote the realization of children's rights as enduring ethical principles and international standards of behaviour towards children.
56. In this regard, strengthening social service workforce is one of UNICEF's global programme priorities. UNICEF recognizes that the child protection workforce is the backbone of any child protection system and plays a central role in supporting children and families. Given its importance, UNICEF (together with the Global Social Service Workforce Alliance) has developed 'Guidelines to Strengthen the Social Service Workforce for Child Protection' (2019). The Guidelines are informed by evidence of what works and lessons learned in the field.
57. The Guidelines define social service workforce as 'paid and unpaid, governmental and non-governmental, professionals and para-professionals, working to ensure the healthy development and well-being of children and families. The social service workforce focuses on preventative, responsive and promotive programmes that support families and children in communities by alleviating poverty, reducing discrimination, facilitating access to services,

promoting social justice and preventing and responding to violence, abuse, exploitation, neglect and family separation.

58. This definition recognizes that a variety of professional and para-professional workers serves the social service system. the common goal of the different cadre of persons with various titles in the social services workforce is – to care, support, promote and empower vulnerable people.
59. UNICEF works closely with the Department of Children’s Services (DCS), the Ministry of Labour and Social Protection to strengthen the social service workforce within the child protection sector. DCS, in partnership with UNICEF, has developed a ‘Framework for strengthening child protection workforce’ which is based on the above-mentioned Global Guidelines. As part of the government’s effort to professionalize the child protection workforce a 10-day standardized in-service training for professional child protection workforce has been developed with UNICEF’s support and has been institutionalized at the Kenya School of Government. To date, more than 80 children’s officers have been trained as master trainers and are ready to carry out the training in partnership with the Kenya School of Government. DCS has, together with UNICEF also developed a standardized in-service training course for a para-professional child protection workforce to equip them with necessary knowledge and skills and certify them accordingly.
60. In this respect, UNICEF Kenya welcomes the intention of the Bill to professionalize social work in Kenya and wishes to bring forward the following considerations:
  - i) While the Bill defines social work, it suggests also defining ‘social work professionals’ or preferable the social service workforce the regulation of which is the objective of this Bill. UNICEF recommends the use of the above definition on social service workforce with possible adaptations to the Kenyan context. Clearly defining the workforce is an essential element of planning for social service workforce.
  - ii) While many Children’s Officers have qualifications that make them eligible to be registered as a social work professional under the Bill, some of the members of the child protection workforce do not meet these requirements but have performed a social work function during several years. We recommend that the Bill outline measures for inclusion of these experienced cadres based on set criteria. This could be for example:
    - a. Based on a set minimum years served as a Children Officer e.g., 5-7 years
    - b. Completion of stipulated bridge training such as the 10-day standardized training for professional child protection workforce of the Kenya School of Government which could be reflected under the Section 18 on qualifications for registration possibly in the section (e) on “other qualifications as the Council may prescribe”.

- iii) In line with the definition of social service workforce as encompassing ‘paid and unpaid’; ‘professional and paraprofessional’ we would welcome a modality of registering para-professional workforce such as Child Protection Volunteers based on certain criteria.

They could be registered as ‘affiliated workforces’. The Child Protection volunteer scheme is well established under the Ministry of Labour and Social Protection and a modality for registration would gradually and increasingly professionalize these cadres and allow for more systematic and continued in-service trainings. At the same time, they would also be subjected to the oversight and disciplinary measures outlined in the Bill.

- iv) Section 4 (2) (c) requires further articulation on who would be eligible to be ‘**associate members**’, as the **Bill currently only stipulates that a person who does not meet requirements under section 22**. While Section 22 does not address this topic and we presume it should read Section 18. Section 18 can be further enhanced to include ‘associate member’ eligibility. One option to consider is **the inclusion of children’s officers in services with minimum years of experience (from 5 to 7 years) who have completed** the 10-day standardized in-service training for professional child protection workforce at the Kenya School of Government **in this category**.
- v) Amend Section 5 to insert ‘provide continuing social work education courses’ especially in view of Section 16 (i) which states the examination board remits 30% of its proceeds to the Institute for this purpose (Section 16(i).)
- vi) Amend Section 6 (d) to include ‘**children**’ and ‘**persons with disabilities**’ after the elderly and before vulnerable person so it will read as ‘the Principal Secretary of the Ministry for the time being responsible for matters relating to social welfare, the elderly, children, persons with disability and vulnerable persons or a representative designated in writing by the Principal Secretary.
- vii) Replacing ‘elected by social work professionals’ with ‘elected by Institute members’ to make it more specific in Section 6 (e) as some social work professionals may not join the Institute, in which case they should not be on the Council.
- viii) Do not include Section 10 on delegation by the Council to ‘any committee or to any member, officer, employee or agent of the Council’ even by resolution as it is too serious a matter to leave to any *ad hoc* committee or individual.
- ix) In section 14, the Bill should mention that if reckless neglect of proper guidelines, standards or professional judgment in executing such functions is shown, these individuals should be held personally responsible.
- x) Section 16 (e), replace ‘certificate’ with ‘exam completion certificates’ to avoid any confusion with practicing certificates mentioned.

- xi) Section 17 (b) (c) (d), the Registration Committee members in principle should not include people who are not members of the Institute as the registration-related duties can and should be fulfilled by Institute members and the Registration Committee is an appendage of the Institute.
- xii) Section 18 (c) and (d) talks about a person who shall be eligible to be registered as a social work professional to have successfully undergone a prescribed certificate, diploma, degree or research course etc; however, it can have different meanings. Consider articulating further on whether the applicant has to have a certificate, diploma, degree or research course **in one of those, or all, or some**.
- xiii) In Section 24 on Register, articulate that the register, along with the list of licensed practitioners to become be made public or public information, whether online or via phone inquiries. This will serve protection of the public and its vulnerable population which is one of the primary reasons for professional regulation.
- xiv) In Section 28 on Practicing Certificate, the Certificate to be changed to 'practice license' as there are several 'certificates' in the Bill (exam certificate, registration certificate). The section should further articulate whether 'practice certificates' should be renewed every other year, upon proof of continuing education requirements. These requirements need to be spelled out whether in the Bill or in rules or regulations.
- xv) In Section 29 (a) on professional misconduct, replace 'his or her employer or client' with 'set of regulations'. Neither employers nor clients stipulate procedures for the social workers.
- xvi) In Section 29 (b), articulate 'social work principles' if not listed in any other part of the Bill as otherwise it will be arbitrary.
- xvii) In Section 29 (c), articulate what constitutes 'corrupt' practice' to be more specific.
- xviii) In Section 29 (f), include the term 'confidential' so it will read as 'discloses confidential information acquired in the course of his or her duties...'
- xix) In Section 29 (j), the use of 'licensed' wording is inconsistent with 'registered' wording currently in the Bill.
- xx) In Section 29 (k), consider allowing a possibility where a social worker enters into a partnership with anyone as long as the partner does not provide social work services and also note that in Section 29 (l) there may be a situation where a social worker might have a private practice and pay office staff or for rental space.
- xxi) Further in Section 29, consider including 'a provision on overstepping the bounds of social work competencies in diagnosing or treating any condition for which the

practitioner has not received sufficient training’ to be part of an act of professional misconduct.

- xxii) In Section 24 (e), specifically mention grants as ‘government grants’ especially as the government is going to be represented in the Council.
  - xxiii) In Section 41 (1), ‘may’ to be replaced with ‘shall’ as the term ‘may’ signals ‘optional’. Similarly, Section 41 (2), we recommend ‘may’ to be replaced with ‘shall’.
  - xxiv) With regard to Section 41 (a), reconsider to delegate ‘the curriculum and the courses of study to be pursued by the students and candidates in order to satisfy the academic requirements of any particular registration’. An explicit responsibility can be given to a Training Curriculum Committee of the Institute (or the Council), in collaboration with the Council on University Curriculum or some other national entity and the Examination Board, working on the training curriculum and course of study.
61. UNICEF observed that the model in the proposed Bill foresees a Council which involves Government representatives (three Permanent Secretaries). Other countries have opted for models whereby social work councils are more independent. All models come with strengths and limitations, e.g., in terms of the agility of the day-to-day operation of the Council and decision making.
62. In conclusion, UNICEF submitted that establishing a system for registration, certification and licensing social workers in Kenya will be a critical milestone for further professionalization of social service workforce in the county.

### 3.10 Individual Submissions on the Bill

63. The following individuals presented their views as follows –
- i) **Ms. Catherine Binelli** supported the Bill and proposed the inclusion of criminology as one of the courses to be offered at the Institute of Social Workers.
  - ii) **Dr. Paul Sutter** from the Moi University Department of Sociology, Psychology and Anthropology supported the Bill as there was need for a corporate social work body to help regulate the profession.
  - iii) **Ms. Purity Achieng** supported the Bill and proposed, that-
    - a) The word institution be changed in the Bill to read “The Social Workers Act”;
    - b) The “Day of Social Workers” be made official in Kenya for social workers to celebrate what they do and it would be a great thing to the society;
    - c) Every professional social worker be respected;

- d) It is time for social workers to be remembered in the country because they did a lot for the country, some risking their lives to see others getting help/ justice;
- e) If this Bill is approved, it will change the country through professionalizing social work.
- iv) **Ms. Phyllis Muraguri**, a social work educator from the Association of Social Work Educators in Kenya supported the Bill because it would significantly professionalize social work education and practice for the benefit of all present and future generations of social workers.
- v) **Mr. Christian Noel Warriah** supported the Bill as the funding to the profession, the regulations of conduct, and the licensing to practice will enable private practice.
- vi) **Ms. Scholastica Oyula** supported the Bill and recommended that the Institute regulates the Units studied by Social Workers from Certificate level upwards to be practical and competitive in the current world because most employers prefer diploma graduates because of the units done.
- vii) **Mr. Karani Onyiko** from Masai Mara University supported the Bill raised concerns and made the following proposals –
  - (a) The Bill should define who a social worker is. It only defines what social work is.
  - (b) He recommended the inclusion of the following core social work courses:- Introduction to Social Work; Human Growth and Development; Social work research methods; Social Work Theory, Family and Child Welfare, Social Law, Social Policy and Administration, Counselling; Social Work Values and Ethics; Human Diversity; Social and Economic Justice, Human Behaviour and the Social Environment, Populations at Risk, And Field Practicum.
  - (c) He questioned the registration status of graduates from Technical Training Institutes (TTIs) and middle level colleges with varying curricula.
  - (d) Registration and categorisation of social workers according to their level of education. e.g., social workers with certificate in social work vis-à-vis those with PhDs.
  - (e) Differentiation of examinations for the different cadres of social workers.
  - (f) Who would be training these professional courses? Is it the Universities?
  - (g) How would the law treat para social workers, who though they have no training in social work, held very senior positions in Government or in NGOs?
  - (h) For academics/ practitioners who would want to transit to private practice, how would the law regulate the setting up of private practice?

- (i) Nature of experience required to qualify to be Chairperson or Executive Director of the Social Work Council MUST be clearly defined. Would there be any sort of practice required?
  - (j) Include the ethic and values in social work that govern social work practice in law and penalty of violation as Schedules to the Bill.
- viii) **Ms. Alyfa Njeri and Ms. Lily Wangui Njuguna, a lecturer at Moi University, Ms. Jane Wambui, and Ms. Emmy Otieno** also expressed support for the Bill.

## CHAPTER FOUR

### 4.0 SPECIFIC CLAUSE OBSERVATIONS & RECOMMENDATIONS

64. In considering the Bill and while conducting public participation on the Bill, the Committee identified the following contentious clauses for in-depth consideration and made the observations and recommendations on each clause as contained in this Chapter—

#### 1) LONG TITLE

The long title of the Bill reads—

*“AN ACT of Parliament to provide for the establishment of the Institute of Social Work and the Social Work Professionals Board; to provide for the examination, registration and regulation of the standards and practice of social work professionals and for connected purposes.”*

#### Committee Observations

The Committee observed that –

- (i) The principal object of the Bill is to provide for regulation of practice by social work professionals. As it is drafted, the title gives the impression that the Bill seeks to establish an institution for training of persons in social work whereas this is not the case.
- (ii) Whereas the Bill does seek to establish the Institute of Social Work Professionals, it is principally intended to regulate the social work profession, register social work professionals and ensure that standards of professional competence are met by those intending to practice social work as a profession. Accordingly, persons seeking registration will join the Institute post-graduation, that is, after undergoing formal training in social work, whether at a university or other training institution as prescribed in law.

#### Committee Recommendation

The Bill be amended by deleting the Long Title and substituting therefor the following—

*“AN ACT of Parliament to make provision for the training, registration and licensing of social work professionals, to regulate their practice, to provide for establishment of the institute of social work professionals and for connected purposes.”*

**Justification - to offer clarity on the principal object of the Bill.**

## **2) CLAUSE 1 - SHORT TITLE**

Clause 1 provides-

*“This Act may be cited as the Institute of Social Work Professionals Act, 2020”*

### **Committee Observations**

The Committee observed that –

- (i) As crafted, the title “Institute of Social Work Professionals Act” gives the impression that the Bill seeks to establish an institution for training of persons in social work whereas this is not the case. The principal object of the Bill is to provide for regulation of practice by social work professionals. This needs to be reflected in the title to avoid misinterpretation.
- (ii) Some stakeholders mentioned that the term “Professional” is alienating and excluding when dealing with various cadres with different skills, different training and academic levels. It is self-elating, the term used all over the world and across the social work family is a “worker”. Hence some suggested the Bill be renamed “Social Workers Act”

### **Committee Recommendation**

The Committee recommends that the Bill be renamed “The Social Work Professionals Act”.

## **3) CLAUSE 2 – INTERPRETATION**

### **Committee Observations**

- (i) The definition of Cabinet Secretary may be reconsidered, that is to read, “cabinet secretary responsible for matters relating to labour or matters relating to social work”. Further the word “protection” may be construed to mean “security” yet the bill concerns social work and not social security;

(ii) The Bill proposes to define the term “practicing certificate” as a practicing certificate issued by the Registration Committee pursuant to section 28. Notably, the Council shall be issuing a practising licence and not practising certificates and the definition should accordingly be changed;

(iii) There is need to define the term “social work professional” in order to specify the persons to whom the Act applies. The definition requires to identify the act of registration noting that this is what will set apart those persons qualified and those not qualified.

(iv) The Technical Committee of the KEMSWA and ASWEK proposed the following definition-

*“social work professional” means a person who, having successfully undergone a prescribed course of social work training in an approved training institution, is a holder of a certificate issued by that institution and is registered under this Act”*

(v) UNICEF proposed the following definition of social work professional based on its Guidelines to *Strengthen the Social Service Workforce for Child Protection*’ (2019)

*“paid and unpaid, governmental and non-governmental, professionals and para-professionals, working to ensure the healthy development and well-being of children and families. The social service workforce focuses on preventative, responsive and promotive programmes that support families and children in communities by alleviating poverty, reducing discrimination, facilitating access to services, promoting social justice and preventing and responding to violence, abuse, exploitation, neglect and family separation.”*

(vi) The Committee received representations that the medical social workers should not be included under the ambit of the Bill as they are health care professionals and fall under the Ministry of Health. To this end, “health” should be removed from the definition of “social work”. Further, the definition leaves out many social workers in the criminal justice and corrections system, community development and others who may be affected by the provisions of the Bill. They accordingly proposed that social work may be defined as –

*“the assessment, diagnosis, treatment and evaluation of individual interpersonal and societal issues through the use of social work knowledge skills, interventions and strategies to facilitate the achievement of optimum psychological functioning “*

or

*“the knowledge and professional practice of change interventions with individuals, groups, families and communities in order to improve their optimal human functioning and psychological wellbeing”*

- (vii) KNASW proposed the insertion of the definition of “Association” as the Kenya National Association of Social Workers which is the registered umbrella body of social workers and has existed in Kenya for over 50yrs. However, the committee observed that there were other social work associations and inclusion may be discriminatory by giving specific recognition to one Association in law to the exclusion of others.
- (viii) Further, the KNASW proposed the deletion of the term “register” and replacing it with the “register of members”; and the insertion of a new definition of “Register of Schools, colleges and universities” being those that offer social work training because there is need to categorize, identify and also give options to the training institutions which will be affected by the Bill.
- (ix) ASWEIK proposed the definition of terms to include “Social Work Educator” to mean “*A person who has undergone requisite professional training in social work and has capacity to impart knowledge and train*”

### **Committee Recommendation**

The Committee recommends that Clause 2 of the Bill be amended by inserting the following new definition in proper alphabetical sequence-

“social work professional” means a person who, having successfully undergone a prescribed course of social work training in an approved training institution, is a holder of a certificate issued by that institution and is registered under this Act”

## **4) PART II – THE INSTITUTE OF SOCIAL WORK PROFESSIONALS**

### **Committee Observation**

The Committee observed that –

- (i) some stakeholders proposed that the Institute that the Bill seeks establish in Clause 3 be renamed “the Board of Social Work Professionals” as it would be more accommodating.

- (ii) that a change of the name would call for amendment of almost all the clauses of the entire Bill as the word institute is used extensively in the Bill;
- (iii) other professional bodies have established similar regulatory organs named “institute” for instance, the institute of human resource professionals, the institute of certified public accountants, the institute of certified public secretaries among others hence the term institute is in order and be retained in the Bill

## 5) CLAUSE 4

### **Committee Observation**

The Committee observed that –

- (i) The clause provides for various categories of membership which include fellows, associates, registered members and other persons whom the council may consider qualified to be registered as members of the Institute;
- (ii) The CWSK submitted that this provision implies that persons who are not social workers by training can be registered as members of the Institute thus defeating the purpose of regulating social work profession in the country and proposed that there would be need to amend the bill to provide for only persons trained in social work and hold a degree in social work may be members of the Institute;
- (iii) the provision empowers the institute of social workers grant fellowships, honorary and associate memberships which is akin to similar memberships awarded by regulatory boards of other professions including arbitrators, advocates, certified public accountants and certified public secretaries etc;
- (iv) in order to ensure quality and high standards of professionalism are maintained, the institute shall prescribe the requirements for practising and non -practising members and grant and renew practising certificates biennially. Ordinarily, honorary members and associate members in other professions are non-practising members or practice on a limited capacity subject to certain prescribed conditions;

(v) the rules, regulations, codes of conduct and professional standards prescribed in the law and by the institute shall apply to all members of the Institute irrespective of academic qualifications or category of membership hence preserving the integrity of the profession and protecting public interest

(vi) an employer will retain discretion to determine the academic qualification that its employees in various cadres must possess upon assessment of its own unique needs and risks;

### **Committee recommendation**

The Committee recommends that Clause 4 be amended by inserting the following new subclause immediately after subclause (3)-

(4) The Council may make Regulations prescribing matters relating to non-practising membership that may be necessary for the promotion of the objects and the regulation of the affairs of the Institute.

**Justification:** to delegate legislative powers to the Council of the Institute to prescribe regulations on matters relating to non-practising membership in order to distinguish that certain categories of members may not render professional services but only hold non practising membership in the Institute e.g special memberships or honorary memberships etc.

## **6) CLAUSE 5 –FUNCTIONS OF THE INSTITUTE**

5.0 Clause 5 provides

5. (1) *The Institute shall—*

(a) *establish, monitor and publish the standards of professional competence and practice amongst social work professionals;*

(b) *register persons who meet the required professional and ethics standards;*

(c) *promote research in social work practice and related matters;*

(d) *publish books, periodicals, journals and articles on social work;*

- (e) provide a medium for communication and exchange of information, knowledge and ethical standards for those persons engaged in the field of social work;*
- (f) network with regional and international related bodies to promote and develop progressive social work practices;*
- (g) hold examinations and prescribe tests of competency deemed appropriate to qualify for membership and certification by the Institute;***
- (h) advise the Examinations Board on matters relating to examination standards and policies;*
- (i) advise the Registration Committee on matters relating to registration;*
- (j) regulate the practice, competence and professional conduct of social work professionals;*
- (k) promote and protect the welfare and interests of social work profession*
- (l) promote inter-professional collaboration with other professional bodies; and*
- (m) carry out any other functions prescribed for it under any of the provisions of this Act or under any written law.*

### **Committee Observation**

The Committee observed that –

- a) the proposed the following new functions by CWSK would enrich the Bill; and
- b) paragraph (g) relates to administration of examinations by the Institute whereas an examinations board also holds examinations. There is need to make clarification to avoid confusion as to who conducts the professional examinations.

### **Committee recommendation**

The Committee recommends that Clause 5(1) be amended by –

- (a) inserting the words “and issue practising certificates” immediately after the word “standards” appearing in paragraph (a);
- (b) deleting paragraph (i) ;

- (c) inserting the following new paragraphs immediately after paragraph (l);
- (la) promote international recognition of the institute;
  - (lb) prescribe, promote and enforce the code of conduct and ethics for social work professionals;
  - (lc) plan, coordinate and oversee continuous professional development and training of members;
  - (ld) collaborate with training institutions, professional associations, professional organizations and other relevant bodies in matters relating to training and professional development of social work professionals;
  - (le) deal with the matters of professional misconduct and discipline of social work professionals;
  - (lf) prescribe the remuneration order for the social work profession;
  - (lg) facilitate arbitration, mediation, conciliation or other alternative dispute resolution mechanism in any disputes referred to it concerning a social work professional in his or her professional capacity;
  - (lh) establish a system of professional supervision of social workers and the appointment of supervisors for that purpose;
- (d) inserting the following new sub-clauses immediately after subclause (1) –
- (2) The Council may appoint such committees or panels as may be necessary to perform its functions under this Act.
  - (3) The Council may delegate its powers and duties, as specified in the delegation, to a committee, panel, or a member of the Council

**Justification:**

To enrich the functions of the institute and as a consequential amendment arising from deletion of the Registration Committee. There is also a new provision which provides for the Council to appoint committees or panels for effective performance of its functions and also provide for delegation of duties and powers.

**7) CLAUSE 6- COUNCIL OF THE INSTITUTE**

Clause 6 provides-

6. (1) *The management of the Institute shall vest in a Council comprising—*

- (a) a chairperson who shall be a social work professional with at least eight years' experience in social work education or practice, elected by the members of the Institute;*
- (b) the Principal Secretary of the Ministry for the time being responsible for matters relating to health or a representative designated in writing by the Principal Secretary;*
- (c) the Principal Secretary of the Ministry for the time being responsible for matters relating to correctional services or a representative designated in writing by the Principal Secretary;*
- (d) the Principal Secretary of the Ministry for the time being responsible for matters relating to social welfare, the elderly and vulnerable persons or a representative designated in writing by the Principal Secretary;*
- (e) five other members, who shall be persons with knowledge and experience in social work, elected by social work professionals; and*
- (f) the Executive Director, as an ex officio.*

*(2) A member elected to the Institute under subsection (1)(a) and (d) shall hold office for a period of three years and shall be eligible for re-election for a further and final term of three years.*

### **Committee Observation**

The Committee observed that –

- i) There is need to provide for academic qualifications for the holder of the office of Chairperson to attract and retain trained professionals in that position. The Technical Committee of the KEMSWA and ASWEK proposed the following options-
  - (a) 10 Years of proven experience in Social Work Education and / or practice;
  - (b) Education qualification –
    - (i) Minimum of a Postgraduate Degree in Social Work; or
    - (ii) Undergraduate Degree in Social Work and a Postgraduate Degree in a related field.
- ii) Other stakeholders submitted that it is important to amend the quantum of professional experience for qualification as a chairperson from 8 to 15 years, *(one with a distinguished*

*career as a social worker and one who meets the objects of chapter six of the constitution on leadership or to a level equivalent to that of the high-level government officials who are members of the council, that is principal secretaries). A person with about 15 years' experience is assumed to have attained the requisite leadership competencies beyond professional courses and has attained managerial positions has capacity to handle high level assignment hence capable of handling the members of the committee. Having a distinguished career in the field of social work ensures familiarity with the subject and ease of decision making.*

- iii) The Committee received views that there needs to be representation of children and 'persons with disabilities' under paragraph (d) noting that children and PWDs are also consumers of social work services;
- iv) The Committee received views from the Ministry of Health opposing the proposed inclusion of the Principal Secretary for matters relating to health in the membership of to the council, however, the committee was of the view that this presence would be crucial noting that medical social workers shall be under the ambit of the proposed law;
- v) The committee also received views opposing inclusion of the Principal Secretary for matters relating to correctional facilities in the membership of the council as the best practice is to provide for the PS responsible for the matter concerned(in this case social services) and co-opt other persons to the council meetings on a need basis.
- vi) There were views proposing replacement of the words 'elected by social work professionals' with 'elected by Institute members' to make it more specific in Clause 6 (e) as some social work professionals may not join the Institute, in which case they should not vote or be on the Council.
- vii) Stakeholders submitted that other countries have opted for models of the regulatory bodies whereby social work councils are more independent with no government representation. They opined that different models came with strengths and limitations, e.g., in terms of the

agility of the day-to-day operation of the Council and decision making and this could be considered.

- viii) On comparative analysis, generally legislative requirements and needs of a particular region sharing the same social work terrain, culture, and political backgrounds are often similar. For example, Eastern Europe (Poland, Romania, Russia, Slovakia, Latvia, and Croatia) have similar legislations, while Uruguay, Paraguay, Peru, Brazil and Chile share distinctive similarities. Many Commonwealth countries including Australia, New Zealand, Canada and many former British colonies share similarities in the politics of their Social Work Associations and institutional set up. Entities in different countries or regions have formed Boards either to manage their examinations, practice standards, or to oversee competent and ethical practices mainly for public and institutional protection. Such Boards are formed by collective entities that have sizeable constituencies and a proven desire and evidence of the need for such a Board. The South Africa model has representation from the government.

### **Committee Recommendation**

The Committee recommends that Clause 6 be amended—

- (a) Deleting subclause (1) (c);
- (b) in subclause (1)(d) by inserting the words “children, persons with disabilities,” immediately after the word “welfare”;
- (c) by deleting subclause (1)(e) and substituting therefor the following-  
  
six other members, who shall be persons with knowledge and experience in social work, elected by the members of the Institute in the manner prescribed by regulations”.
- (d) by inserting the following new subclause immediately after subclause (1)—  
  
(1A) A person shall may only be elected as a Chairperson under this section is such person—
  - (a) is a registered member of the institute;
  - (b) holds a degree in social work or a related field from a university recognized in Kenya;

(c) has had at least five years proven experience in social work; and

(d) meets the requirements of Chapter Six of the Constitution.

(e) by inserting the following new subclauses immediately after subclause (2)-

(3) The Chairperson or a member of the Council may, in writing addressed to the Council, resign from office and a vacancy in office may be filled in the manner prescribed by regulations.

(4) The Council may appoint such committees as may be necessary to perform its functions under this Act

(5) The Council may delegate its powers and duties, to a committee or a member of the Council.

**Justification:**

- i. To enhance the academic qualifications and years of experience required for the position of Chairperson, ii. provide for representation of children and persons with disabilities who are also consumers of social work services
- ii. to remove membership of the Principal Secretary responsible for correctional facilities from the membership of the council as the best practice is to provide for the PS responsible for the matter concerned(in this case social services) and then co-opt other persons to the council meetings on a need basis.
- iii. to provide for manner of resignation from office of Council Member;
- iv. to empower the Council to appoint committees and delegate its duties and powers for efficiency.

**8) CLAUSE 7-EXECUTIVE DIRECTOR**

Clause 7 provides-

7. (1) *There shall be an Executive Director of the Institute who shall be competitively appointed by the Council, and whose terms and conditions of service shall be determined by the Council in the instrument of appointment.*

(2) *A person shall not be appointed as an Executive Director under this section unless such person—*

*(e) is a registered social work professional;*

*(f) has had at least eight years proven experience in social work; and*

*(g) meets the requirements of Chapter Six of the Constitution.*

(3) *The Executive Director shall—*

*(a) be the secretary to the Council;*

*(b) subject to the directions of the Council, be responsible for the day-to-day management of the affairs of the Institute; and*

*(c) be responsible to the Council generally for the implementation of this Act.*

### **Committee Observation**

The Committee observed that –

i) there is need to provide for academic qualifications for the holder of the office of Executive Director to attract and retain trained professionals in that position especially in view of the managerial nature of the role. The Technical Committee of the KEMSWA and ASWEK proposed the following options-

(a) 10 Years of proven experience in Social Work Education and / or practice;

(b) Education qualification –

(i) Minimum of a Postgraduate Degree in Social Work; or

(ii) Undergraduate Degree in Social Work and a Postgraduate Degree in a related field

ii) there is need for a clause on removal from office to prevent perpetual occupancy of the office.

It is also a check and balance mechanism to promote good governance.

### **Committee Recommendation**

The Committee recommends that Clause 7 be amended—

(a) In subclause (2) by inserting the following new paragraph immediately after paragraph

(a)—

“(aa) holds a degree from a university recognized in Kenya”

(b) In subclause (2)(b) by deleting the word “eight” and substituting therefor the word “ten”

**Justification:** To enhance the academic qualifications and years of experience required for the position.

## **9) CLAUSE 9 - EXPERTS AND CONSULTANTS**

Clause 9 provides-

*The Council may, on the advice of the Executive Director, engage on behalf of the Institute, the services of an expert or a consultant in respect of any of the functions of the Institute in which the experts or consultant has special competence.*

### **Committee Observation**

The Committee observed that the Council may retain autonomy to reach a decision on hiring of experts and consultants and not only upon the advice of the executive director.

### **Committee Recommendation**

The Committee recommends that Clause 9 be amended by deleting the words “on the advice of the Executive Director”.

**Justification:** Requiring the engagement of consultants to be on the advice of the Executive Director creates unnecessary conflict as he or she is already a member of the Council , which also requires to retain autonomy to reach its decisions including a decision on hiring of experts.

## **10) CLAUSE 14 - PROTECTION FROM PERSONAL LIABILITY**

Clause 14 provides-

*No matter or thing done by a member of the Council or by any officer, member of staff, or agent of the Council shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Council under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.*

### **Committee Observation**

The Committee observed that the clause on protection from personal liability for acts or omissions in good faith by employees or members of the council cannot relieve the council from compensation of persons for injury or damage to their property.

### **Committee Recommendation**

The Committee recommends that Clause 14 be amended by-

- (a) renumbering the existing provision as subclause (1); and
- (b) inserting the following new subclause after the proposed subclause (1) –

“(2) The provisions of subsection (1) shall not relieve the Institute of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Council by this Act or by any written law or by the failure, whether wholly or partially, of any works.”

### **Justification**

The protection from personal liability should be limited to acts done in good faith and the protection should not be invoked to relieve the council from compensation of persons for injury or damage to their property

## **11) CLAUSE 15-EXAMINATIONS BOARD**

Clause 15 provides-

*15. (1) There is hereby established a Board to be known as the Social Work Professionals Examinations Board.*

*(2) The Examination Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—*

- (a) suing and being sued;*

*(b) purchasing, acquiring, holding or disposing of property;*

*(c) borrowing money; and*

*(d) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate.*

*(3) The Examinations Board shall comprise—*

*(a) four persons who shall be registered social work professionals nominated by the Council, one of whom shall be appointed by the Council from amongst the members of the Institute as Chairperson of the Board;*

*(b) two persons nominated by the Cabinet Secretary of the Ministry for the time being responsible for education, one of whom shall be from Kenya Institute of Curriculum Development and one from the Kenya National Examination Council;*

*(c) two persons nominated by the Commission for University Education; and*

*(d) one person nominated by the Attorney General.*

### **Committee Observation**

The Committee observed that –

(i) The Committee observed from some submissions that the provision may be amended by removing the aspect of a body corporate since the board shall be under the institute which is also a body corporate. As drafted, it connotes independence.

(ii) The Technical Committee of the KEMSWA and ASWEK proposed deletion of 15(2) as the Board will be part of the Council.

### **Committee Recommendation**

The Committee recommends that Clause 15 be amended by –

(a) deleting subclause (2);

(b) deleting subclause (3) (a) and substituting therefor the following –

*Report of the Departmental Committee on Labour and Social Welfare on its Consideration of the Institute of Social Work Professionals Bill, 2021 (National Assembly Bill No. 31 of 2020)*

“(a) A chairperson appointed by the Council from among members of the Institute;

(aa) three other members, one of whom is teaching at a University offering social work, who shall be social work professionals appointed by the Council to represent the diversity of various fields of social work practice and who reflect the gender and ethnic composition of Kenya,”

(c) inserting the following new sub-clauses immediately after subclause (4)-

(5) The Board of the Examinations Board shall regulate its own meetings.

(6) The members of the Examination Board shall be paid such allowances and disbursements for expenses as may be determined by the Council.

**Justification:** To remove the body corporate status of the examination board because the examination of the persons seeking admission into the profession is a function of the Institute as the governing body and therefore the examining Board cannot be an independent or a separate legal entity. The proposed amendments further provide for remuneration of the members of the examination board, which wasn't provided for and also provides clarity of persons to be appointed as members of the examination Board who must be social workers and who reflect the gender, racial and ethnic composition in conformity with the Constitution of Kenya.

## 12) CLAUSE 16- FUNCTIONS OF THE EXAMINATIONS BOARD

Clause 16 provides-

*16. The Examination Board shall—*

- (a) prescribe and regulate the syllabus of instruction for social work professionals examinations;*
- (b) prepare and conduct examinations for persons seeking registration under the Act;*
- (c) make rules with respect to examinations;*
- (d) prescribe the fees and other charges payable with respect to such examinations;*
- (e) issue certificates to candidates who have satisfied examination requirements;*
- (f) issue certificates and other awards to candidates who satisfy examination requirements;*
- (g) investigate and determine cases involving indiscipline by students registered with the Examination Board;*
- (h) promote recognition of its examinations locally and internationally;*
- (i) remit a proportion of not less than thirty percent of the fees collected under paragraph (d) to the Institute to*

- support continuing social work professional development; and*  
*(j) do anything incidental to the performance its functions.*

### **Committee Observation**

The Committee observed that –

- (i) paragraph (a) provides for prescribing of syllabus of instruction for social work professionals by the examinations Board. It is unclear whether this would be in contradiction with the syllabus prescribed by universities.
- (ii) paragraph (e) is duplicated in (f), which is clearer;
- (iii) further, paragraph (i) is not a function ;

### **Committee Recommendation**

The Committee observed that Clause 16 be amended by deleting paragraphs (a,) (e) and (i).

### **Justification:**

To align the Board with its mandate, which is, examination of persons seeking registration as social workers after completion of studies. Accordingly the amendment removes the provision empowering the examination board to prescribe the syllabus for training of social work professionals because this is a function carried out by other legally mandated bodies to do so, including the Commission for University Education, the Technical and Vocational Education. The other amendments seek to ensure that the Bill conforms to proper drafting style.

## **13) CLAUSE 17- REGISTRATION COMMITTEE**

Clause 17 provides for establishment of the Registration Committee responsible to receive applications and register applicants.

*17. (1) There is hereby established a committee to be known as the Registration Committee comprising—*

- (a) a chairperson appointed by the Council from amongst its members;*
- (b) one person nominated by the Federation of Kenya Employers;*
- (c) one person nominated by the Examination Board;*

*(d) one person nominated by the Kenya National Examination Council; and*

*(e) the Attorney-General or his representative designated in writing.*

### **Committee Observation**

The Committee observed that –

- (i) Stakeholders raised the issue of categorization of social workers for holders of different academic papers that is for instance, certificate holders, diploma holders, etc.
- (ii) Stakeholders proposed that being the biggest employer of social workers, the government may be included in the membership of the registration committee
- (iii) The committee observed that the body intended to be established is independent of the Board of the Institute and the name “committee” may connote that it is a committee of the Board. It was observed that the composition of the Board does not promote inclusivity or cater for uniqueness of Medical Social Work.
- (iv) The Technical Committee of KEMSWA and ASWEK, proposed that the Registration Committee be renamed “Licensing Board” and the composition of the Board be amended to include 2 persons nominated by Examination Board (1 from Generic social work and 1 from Medical Social Work) and also include 2 persons nominated by the Kenya National Examination Council (KNEC) and Kenya Medical Training Institute (KMTC) respectively. It is however important to note the concerns regarding inclusion of medical social workers in the ambit of the Bill.
- (v) In line with the proposed definition of social service workforce as encompassing ‘paid and unpaid’; ‘professional and paraprofessional’ UNICEF proposed a modality of registering para-professional workforce such as Child Protection Volunteers based on certain criteria. They could be registered as ‘affiliated workforces’. The Child Protection volunteer scheme is well established under the Ministry of Labour and Social Protection and a modality for registration would gradually and increasingly professionalize these cadres and allow for more systematic and continued in-service trainings. At the same

time, they would also be subjected to the oversight and disciplinary measures outlined in the Bill.

- (vi) On clause 17 (1) (b) (c) (d) - UNICEF recommend that the Registration Committee members in principle not include people who are not members of the Institute as the duties related to registration can and should be fulfilled by Institute members and the Registration Committee is an appendage of the Institute.

### **Committee Recommendation-**

The Committee recommends that Clause 17 of the Bill be deleted and consequential amendments made to the provisions of the Bill referring to the Registration Committee in Clause 2 (definition of “practicing certificate” and “Registration Committee”); Clause 5(1)(i); Clause 21(1); Clause 21(3); Clause 22; Clause 23; Clause 28(2); and Clause 42(1).

### **Justification**

The functions of the Registration Committee are already the administrative functions of the Council under Clause 5. The Clause creates unnecessary duplication and bureaucracy in the affairs of the Institute.

## **14) CLAUSE 18- QUALIFICATIONS FOR REGISTRATION**

*18. (1) Subject to the provisions of this Act, a person shall be eligible to be registered as a social work professional if such person—*

- (a) is of good conduct;*
- (b) has paid the prescribed fees;*
- (c) has successfully undergone a prescribed certificate, diploma, degree or research course of instruction and has passed the appropriate examination conducted or prescribed by the Institute in—*
  - (a) social work theory and practice;*
  - (b) social psychology;*
  - (c) human growth and development;*
  - (d) social policy;*

- (e) *social work philosophy;*
- (f) *social work ethics and practice;*
- (g) *social work research methods;*
- (h) *sociology;*
- (i) *social planning; or*
- (j) *social policy administration.*

(d) *has undergone a certificate, diploma, degree or research course of training and passed an examination elsewhere than in Kenya, which the Institute recognizes as equivalent to the training and instruction required in the case of persons trained in Kenya and as equivalent to the qualifications required under the Act; and*

(e) *holds such other qualifications as the Council may prescribe.*

(2) *The Council may, by notice in the Gazette, approve qualifications it considers sufficient to allow a person to be registered as a social work professional.*

### **Committee Observation**

The Committee observed that –

- (i) it is best to leave the prescription of the courses for study as an administrative function of the Council and the subjects need not be set out in the law. This will also be easier to review as opposed to the amendment process that is long.
- (ii) subclauses (1)(c) and (d) mention that a person who may have undergone a certificate, diploma, degree or research course may be eligible for registration as a social work professional. However, research course cannot be a substitute for academic training.
- (iii) UNICEF observed that while many Children’s Officers have qualifications that make them eligible to be registered as a social work professional under the Bill, some of the members of the child protection workforce do not meet these requirements but have

performed a social work function during several years. It recommends that the Bill outline measures for inclusion of these experienced cadres based on set criteria. This could be for example based on a set minimum years served as a Children Officer e.g., 5-7 years of completion of stipulated bridge training such as the 10-day standardized training for professional child protection workforce of the Kenya School of Government which could be reflected under the Section 18 on qualifications for registration possibly in the section (e) on “other qualifications as the Council may prescribe”. This may mean amending from “and” to “or” in paragraph (d) and redrafting the entire clause.

- (iv) On the flipside, CWSK proposed that the social work profession be restricted to degree holders, that is, B.A Social work degree as is the practice by most professions within Kenya and other jurisdictions e.g. engineers, lawyers among others
- (v) There are currently approximately 30,000 degrees and 20,000 diploma holders
- (vi) Other stakeholders submitted that KICD and KNEC should be included in approval of the curriculum or syllabus of any institution offering social work training at any level.

### **Committee Recommendation**

The Committee recommends that Clause 18 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclauses —

“(1) Subject to the provisions of this Act, a person shall be eligible to be registered as a social work professional if such person-

- (a) has obtained a certificate, diploma, degree in social work from a college or university recognised in Kenya;
- (b) has subsequently passed the appropriate examination required by the Institute;
- (c) is of good conduct; and
- (d) has paid the prescribed fees.

(1A) The Council shall create categories of members based on their academic qualifications and prescribe the powers of and duties that may be performed by each category.

**Justification:**

- i. the amendment seeks to make the provision neater and clearer.
- ii. It is best practice to leave details such as the prescription of the courses to be studied by social workers as an administrative function of the Council in consultation with relevant bodies or in regulations for flexibility of likely regular reviews as opposed to anchoring the same in legislation and face rigidity of amending the same in Parliament.
- iii. It also proposes to remove “research course of instruction” among the qualifications for registration because pursuing a research course only does not yield academic qualifications.
- iv. The amendments also propose that social work professionals be recognised and registered in different categories of the memberships based on their academic qualifications. Further, the institute may distinguish the specific duties that may or may not be undertaken by the different categories of social work professionals based on their academic qualifications.

**15) CLAUSE 19- DISQUALIFICATION FROM REGISTRATION**

**Committee Observation**

The Committee observed that paragraph (d) is misplaced as it relates to professional misconduct hence it should be moved to clause 23(deregistration).

**Committee Recommendation**

The Committee recommends that the Clause 19 of the Bill be amended by deleting paragraph(d).

**Justification:** it is observed that this clause relates to reasons for disqualification from registration and paragraph (d) lists ‘professional misconduct’ as one such reason. However, this is misplaced because professional misconduct occurs during the course of undertaking professional work, that is, after registration as a social work professional. Accordingly, a person who commits professional misconduct may be deregistered hence this provision is best placed under clause 23.

**16) CLAUSE 20- REGISTRATION OF SOCIAL WORK FIRMS**

*20. A person may register a social work firm if—*

- (a) the firm has a certificate of registration of a business name or certificate of incorporation;*
- (b) the firm has at least one partner or principal shareholder who is registered as a social professional and who has a valid practicing certificate; and*
- (c) the person fulfils any other condition as may be stipulated by the Council.*

### **Committee Observation**

The Committee observed that it will be difficult to hold persons personally accountable for professional misconduct if they are shareholders or directors in a company since a company is a separate entity from the owners and liability is limited. A partnership would be the ideal vehicle for such a firm as partners are personally liable for professional misconduct.

### **Committee Recommendation-**

The Committee recommends that Clause 20 of the Bill be amended —

(a) in paragraph (a) by deleting the words “of a business name or certificate of incorporation” and substituting therefor the word “partnership”

(b) by deleting paragraph (b) and substituting therefor

“(b) the partners in the firm hold valid practising certificates and are registered as social work professionals; and”

### **Justification:**

i. to ensure that the registered owners of social work firms are registered and licensed as social work professionals so as to protect clients from unqualified persons.

ii. Further, the amendment seeks to ensure that partners in social work firms may be held personally accountable for professional misconduct. This is possible where the firm owners are in a partnership and not where they are shareholders or directors in a company because a company is a separate entity from the owners and liability of the shareholders is limited.

### **17) CLAUSE 21**

Clause 21 deals with applications for registration as a social work professional.

### **Committee Observation**

The Committee observed that there is no process of communication by the Council to an applicant in case the application is not approved for registration.

### **Committee Recommendation-**

The Committee recommends that clause 21 be amended

- (a) in subclause (1) by deleting the words “Registration Committee” and substituting therefor the word “Council”;
- (b) in subclause (3) by deleting the words “Registration Committee” and substituting therefor the word “Council”;
- (c) by inserting the following new subclause immediately after subclause (3) –
  - (4) Where an application is rejected, the Council shall inform the applicant, in writing, of its decision.
  - (5) An applicant who is aggrieved by the decision of the Council may apply to the Council seeking a review of the decision.

**Justification:** As a consequential amendment to the deletion of the registration committee in clause 17 and further to provide for communication by the Council to an applicant in case the application is not approved for registration and also provide for a review mechanism.

## **18) CLAUSE 24- REGISTER**

### **Committee Observation**

The Committee observed that –

- (i) There is need to articulate further that the register, along with the list of licensed practitioners should be made public or public information, whether online or via phone inquiries. This will serve protection of the public and its vulnerable population which is one of the primary reasons for professional regulation.
- (ii) KNASW proposed that two registers of members and register of schools, colleges, universities. This will be to give effect to the purpose of this bill in reference to the opening citation which will be to provide for training, examination, registration, regulation of syllabus and standards

### **Committee Recommendation**

The Committee recommends that Clause 24 of the Bill be amended by inserting the following new subclause immediately after subclause (6)—

“(7) The Executive Director shall publish and facilitate public access to the Register.”

**Justification:** To allow members of the public to access the Register and ascertain the professional status of social work professionals.

## 19) CLAUSE 28- APPLICATION FOR PRACTICING CERTIFICATE

*28. (1) No person shall practice as a registered social work professional unless the person has been issued with a valid practicing certificate.*

*(2) A person wishing to obtain a practicing certificate shall apply to the Registration Committee.*

*(3) An application under this section shall be in the prescribed form and shall be accompanied by the prescribed fee.*

*(4) Where an application is made by a person in accordance with this section, Executive Director shall issue such a person a practicing certificate if satisfied that the person—*

*(a) is registered under this Act; and*

*(b) meets such other requirements as may be prescribed.*

*(5) A practicing certificate remains in force unless its holder—*

*(a) is removed from the register; or*

*(b) is suspended.*

*(6) Where a practicing certificate ceases to be in force under subsection (5), the person to whom the certificate was issued shall deliver it to the Council within thirty days from the date on which he or she ceases to be registered.*

*(7) Any person who, without reasonable excuse contravenes subsection (6) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings.*

### Committee Observation

The Committee observed that –

*Report of the Departmental Committee on Labour and Social Welfare on its Consideration of the Institute of Social Work Professionals Bill, 2021 (National Assembly Bill No. 31 of 2020)*

- (i) The committee observed that the stakeholders including the Technical Committee of KEMSWA and ASWEK proposed for the practising licence to be renewed every two years. UNICEF proposed that renewal be upon proof of continuing education requirements.
- (ii) There was a concern that Clause 28(1) needs further discussion to address social workers who are public servants. Would the provision apply to those in the public service or probation service also? The committee observed that the rationale for renewal of the practising certificate regularly is to afford the regulating body an opportunity to examine whether the member is still fit to practice and if he or she meets all prescribed requirements. The committee further noted that “practice” connotes “utilisation of skills for gain” which is likely in a private institution whereas those working in the public sector offer their skills in a support capacity and not for gain. For this reason, persons in public service in other professions that take out practising certificates are either exempted by their professional bodies from the requirement to take out a practising certificate or paid a non-practising allowance by their employers where such exemption is not granted.
- (iii) Subclause 7 may be considered to include a jail term where an offender does not pay the fine. The committee observed that the implementation of the proposal may be a challenge as it concerns professional misconduct of failure to return a cancelled certificate to the issuing authority and which would be a determination made by a private professional regulatory body and not a court of law.

### **Committee Recommendation**

The Committee recommends that Clause 28 of the Bill be amended—

- (a) in subclause (1) by inserting the word “annual” immediately after the word “valid”;
- (b) in subclause (2) by deleting the words “Registration Committee” and substituting therefor the word “Council”;
- (c) by deleting subclause (7).

### **Justification:**

- (i) To require the renewal of practicing certificates on an annual basis;

- (ii) As a consequential amendment to the proposed deletion of the “Registration Committee”;
- (iii) To delete an unnecessary penalty for failure to return a practising certificate which is proposed to be renewed on an annual basis.

## **20) CLAUSE 29- PROFESSIONAL MISCONDUCT**

**29.** (1) *A person registered under this Act commits an act of professional misconduct if the person—*

- (a) deliberately fails to follow lawful social work procedures stipulated by his or her employer or client;*
- (b) refuses, fails or neglects to apply established social work principles in the course of discharging his or her professional functions;*
- (c) engages in corrupt practice;*
- (d) is grossly negligent in the conduct of professional duties;*
- (e) engages in negative practices such as nepotism, tribalism, racism and other acts of discrimination in the discharge of professional functions;*
- (f) discloses information acquired in the course of his or her duties to any person without the consent of his employer or client or otherwise than required by law;*
- (g) uses his or her position to obtain favours of a sexual kind or other benefits for which he or she is not entitled to in the discharge of professional functions;*
- (h) engages in activities which are in conflict with those of his or her employer or client or activities which are contrary to those for which he is registered as a social work professional;*

- (i) is found guilty of fraud or any dishonest act*
- (j) allows a person not licensed to practice to practice in his name;*
- (k) enters for the purpose of or in the course of practicing as a social work professional, into partnership with a person who does not hold a practicing certificate or secures any professional business through the service of such a person or by means not open to a social work professional;*
- (l) pays or allows or agrees to pay or allow directly or indirectly any person other than a person who holds a practicing certificate, is a retired partner or the legal representative of such a partner any share, commission or brokerage out of the fees for, or profits of, his or her professional services;*
- (m) expresses an opinion on any matter with which he or she is concerned in a professional capacity without obtaining sufficient information on which to base the opinion;*
- (n) fails to account for client's money;*
- (o) violates Chapter Six of the Constitution; or*
- (p) does or fails to do any other act which may be prescribed.*

### **Committee Observation**

The Committee observed that –

- (i) In paragraph (a), stakeholders recommend replacing ‘his or her employer or client’ with ‘set of regulations or procedures prescribed by law as neither employers nor clients stipulate procedures for the social workers.
- (ii) there is need to define social work principles under (b) as these may not be clear to users.

- (iii) Paragraph (f) may read discloses *confidential* information acquired in the course of his or her duties.
- (iv) The committee observed that paragraph (g) should be amended to indicate general abuse of office or undue influence as professional misconduct without specifying the kinds of favours one may solicit
- (v) under paragraph (j) the use of ‘licensed’ wording is inconsistent with ‘registered’ wording currently in the Bill.
- (vi) Stakeholders proposed allowing a possibility where a social worker enters into a partnership with anyone as long as the partner does not provide social work services under paragraph (k). However, the committee was of the view that this would bring challenges of establishing a practice with unqualified persons.

### **Committee Recommendation**

The Committee recommends that the provisions of the Clause are adequate. No amendment is necessary.

### **21) CLAUSE 32**

### **Committee Observation**

The Committee observed that the stakeholders proposed that the disciplinary committee may recommend a person who has committed an act of professional misconduct undertakes training at his own cost and at such institutions as may be determined by the Committee. The Committee opined that this would amount to overregulation and may form part of administrative measures that may be adopted by the Council, if need be.

### **Committee Recommendation**

The Committee recommends that Clause 32(4)(c) be amended by deleting the words “for such period not exceeding five years”.

**Justification:** This is a consequential amendment arising from the proposal to require social work professionals to apply for annual practicing certificates.

## 22) CLAUSE 37- ACCOUNTS AND AUDIT

*37. (1) The Council shall cause to be kept proper books and other records of accounts of its income, expenditure, assets and liabilities.*

*(2) Within a period of three months after the end of each financial year, the Council shall submit to the Auditor-General the accounts of the Council, in respect of that year, together with—*

*(a) a statement of income and expenditure during that financial year; and*

*(b) a statement of the assets and liabilities of the Council on the last day of that financial year.*

*(3) The accounts of the Council shall be examined, audited and reported upon annually by the Auditor-General in accordance with the provisions of the Public Audit Act, 2015.*

### **Committee Observation**

The Committee observed that the Institute may hire a private Auditor to audit its financial records as the Auditor-General ordinarily audits public entities.

### **Committee Recommendation**

The Committee recommends amendment of subclause (2) and (3) to reflect an appointed Auditor instead of the Auditor General.

**Justification:** The Institute is a professional association that does not benefit from public funds appropriated by the National Assembly therefore does not require to be audited by the Auditor General.

## 23) CLAUSE 41- REGULATIONS

*41. (1) The Council may make regulations generally for the better carrying out of the provisions of this Act.*

### **Committee Observation**

The Committee observed that-

(a) a proposal was made to replace the word 'may' with 'shall' as the term 'may' signals 'optional'. The Committee unanimously agreed that 'shall' adequately empowers the Council to make Regulations as and when it becomes necessary;

(b) certain matters to be included to prescribed in regulations as per some of the proposed preceding amendments

*Report of the Departmental Committee on Labour and Social Welfare on its Consideration of the Institute of Social Work Professionals Bill, 2021 (National Assembly Bill No. 31 of 2020)*

### **Committee Recommendation**

The Committee recommends amendment of Clause 41 –

a) in subclause (1) to replace the word ‘may’ with ‘shall’.

b) in subclause (2) by –

(i) deleting paragraph (a) and substituting therefor the following-

(a) the courses of study to be pursued by candidates in order to satisfy the professional requirements of registration

(ii) inserting the following new paragraphs after paragraph (a)

(aa) the proofs to be furnished as to education, good character and experience;

(ab) the subjects for examination of candidates for registration as social workers;

(ac) rules on conduct of disciplinary proceedings;

(ad) recognition, regulation and membership status of non-practising members;

(ae) subscriptions;

(af) regulation of powers exercisable by the Council and any committees or subcommittees of the Council, and delegation of powers;

(ag) manner of convening meetings of the Council and the committees of the Council, and quorums and procedure of meetings of the Council;

(ah) manner of convening general meetings of the Institute, and quorum and procedure of general meetings;

(ai) manner of election, removal and replacement of the Chairperson, the vice-chairperson and the other members of the Council;

### **24) CLAUSE 42- TRANSITION**

*42. (1) The National Executive Council of the Kenya National Association of Social Workers existing before the enactment of this Act shall assume the responsibilities imposed on the Council and Registration Committee by this Act as an Interim Council and Interim Registration Committee until the first elections held under this Act.*

*(2) The chairperson elected at the last annual general meeting of the Kenya National Association of Social Workers shall continue to act as chairperson of the Institute until the first elections held under this Act.*

*(3) Within twelve months of the commencement of this Act, the Interim Council shall facilitate the registration of members of the Institute and convene the first annual general meeting for the election of Council members.*

*(4) Any examinations currently being conducted by any statutory body for the purpose of qualifying as a social work professional shall be transferred to the Examinations Board within twelve months of the commencement of this Act.*

### **Committee Observation**

The Committee observed that it was proposed that the Council of the Kenya National Association of Social Workers undertakes the functions of the Council and the Registration Committee before they are formed under the Act.

It was observed that since this is not the exclusive Association for all social workers, the provision may result in exclusion of the interests of members of other Associations of social workers. The technical committee proposed that the Transitional Council shall have representatives from the following organizations-

- (a) 2 members from Association of Social Work Education in Kenya (ASWEK)
- (b) 2 Members from Kenya National Association of Social Workers (KNASW)
- (c) 2 Members from Kenya Medical Social Workers Association (KEMSWA)
- (d) A representative from Ministry of Labour
- (e) A representative from the Ministry of Health
- (f) A representative from Attorney General

### **Committee Recommendation**

That Clause 42 of the Bill be amended by—

- (a) deleting subclause (1) and substituting therefor the following new subclause—

(1) There is hereby established an Interim Council to assume the responsibilities imposed on the Council by this Act until the first elections held under this Act comprising—

- (a) one person appointed by the Cabinet Secretary responsible for matters relating to labour and social welfare;
- (b) one person appointed by the Cabinet Secretary responsible for matters relating to health; and
- (c) one person appointed by the Attorney General;
- (d) two persons nominated by the governing body of the Association of Social Work Education in Kenya existing before the commencement of this Act;
- (e) two persons nominated by the governing body of the Kenya National Association of Social Workers existing before the commencement of this Act; and
- (f) two persons nominated by the governing body of the Kenya Medical Social Workers Association existing before the commencement of this Act.

(b) deleting subclause (2) and substituting therefor the following new subclause—

“(2) The members of the Interim Council under subsection (1) (d), (e), and (f) shall elect one of their number to act as chairperson of the Institute until the first elections held under this Act.”

**Justification:** There are currently three Associations of social workers that need to be included in the Interim Council that will manage the transition to one regulatory body for all social work professionals.

## 25) GENERAL OBSERVATION

The committee observed that the Bill lacked provisions relating to carrying out of general or special meetings of the Institute and **recommended** insertion the following new clause on general principles applicable to meetings of the Institute, voting by members and connected matters while empowering the Council to prescribe regulations on the fine details concerning the same-

The General Meeting. **5A.** (1) The general meeting shall be the supreme authority of the Institute which shall approve all resolutions and important decisions of the Institute.

(2) The general meeting shall consist of all the members of the Institute.

(3) The quorum of the general meeting shall be an eighth of all the members of the Institute.

(4) The Chairperson of the Council shall preside at the general meeting and in the absence of the chairperson, the vice-chairperson shall preside at the meeting.

(5) In the absence of both the chairperson and the vice-chairperson, the Council shall nominate one among its members to preside.

(6) The expenses of the annual general meeting shall be defrayed from the general funds of the Institute.

Ordinary general meeting. **5B.** (1) The Council shall, convene an ordinary general meeting of the Institute once every year but not later than six months after the end of each year at such venue as may be determined by the Council.

(2) The Council shall present to the ordinary general meeting a full report of the activities of the Institute in the immediately preceding year.

Requisitioning a special general meeting. **5C.** (1) A special general meeting of the Institute may be held —

(a) at any time;

(b) on a written request made to the Council and signed by not less than an eighth of members of the Institute specifying the object of the proposed meeting.

(2) The Council shall, within fourteen days of receiving a requisition submitted under subsection (1), convene a special general meeting of the Institute.

(3) If the Council fails, within fourteen days after the requisition, to convene a general meeting in accordance with the requisition, and specifying that it shall be held within thirty days, the members may themselves convene that general meeting to be held at any time within two months after such requisition.

Convening and procedure of meetings. **5D.** (1) A meeting of the Institute shall be convened by the Council by giving to every member of the Institute a written notice—

(a) stating the place and time of the meeting; and

(b) indicating the business which it is proposed to transact at the meeting, which shall include, among other matters, the presentation of the following—

(i) a report by the Council covering the past year;

(ii) financial statements and the auditor's report thereon;

(iii) election of the Chairperson and Council members; and

(iv) the appointment of the auditor.

(2) Notice of a meeting shall be given not less than fourteen days before the date on which it is to be held to each member of the Institute by posting the notice to the address of the member last known to the Institute, or by handing the notice to the member in person.

(3) The validity of any proceedings of the Institute shall not be affected by any failure to comply with the requirement of subsection (2) of this unless it is proved that the failure to comply in relation to any member was a deliberate failure.

(4) Subject to the provisions of this Act, the manner of convening general meetings of the Institute and the procedure at a general meeting shall, be as may be prescribed, from time to time, by the Council.

Resolutions of the Institute. **5E.** (1) Except for any purpose for which a special resolution is expressly required by this Act or by any regulation made under this Act, all resolutions of the Institute in general meeting shall be by simple majority vote.

(2) In this Act a "special resolution" means a resolution passed by not less than two-thirds of such members of the Institute as may be present and vote thereon at a general meeting of the Institute, duly convened with notice of the intention to propose such resolution.

Voting. **5F.** Every member present at a general meeting of the Institute shall have one vote, and the chairperson of the Council shall also have a casting vote.

Voting procedure. **5G.** Subject to the provisions of this Act, the procedure of voting at the general meetings, shall, be as may be prescribed, from time to time, by the Council.

Alteration of resolutions **5H.** A resolution of the Institute in a general meeting shall not be altered or rescinded within nine months after the passage of the resolution without a special resolution of the Institute.

Minutes to be recorded, etc.

**51.** The Council shall cause proper minutes of all meetings of the Council and of the general meeting to be taken and recorded.

**CHAPTER FIVE**

**5.0 COMMITTEE RECOMMENDATION**


The Committee, having considered the Institute of Social Work Professionals, Bill 2020 proposes that the Bill be **agreed to; subject to the amendments contained in the Schedule.**

SIGNED..........DATE.....<sup>22<sup>nd</sup></sup> SEPTEMBER, 2021.....

**HON. JOSPHAT KABINGA WACHIRA, M.P.**

**CHAIRPERSON**

**DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE**

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE: 28 SEP 2021</b>	
<b>DAY:</b>	
<b>TABLED BY:</b>	
<b>CLERK-AT THE-TABLE:</b>	

# **ANNEXURE 1: ADOPTION SCHEDULE**



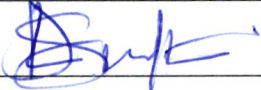
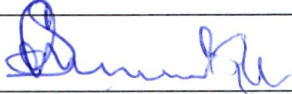



**THE NATIONAL ASSEMBLY  
12TH PARLIAMENT - FIFTH SESSION (2021)  
DC- LABOUR AND SOCIAL WELFARE**

**REPORT ADOPTION SCHEDULE**

**REPORT ON THE CONSIDERATION OF INSTITUTE OF SOCIAL WORK  
PROFESSIONAL BILL, 2020**

**DATE:** 23<sup>RD</sup> JULY, 2021

No.	HON MEMBER	SIGNATURE
1.	The Hon. Josphat Kabinga Wachira, M.P – (Chairperson)	
2.	The Hon. Gideon Koske Kimutai, M.P. (Vice Chairperson)	
3.	The Hon. Ronald Kiprotich Tonui, MP	
4.	The Hon. Abdi Mude Ibrahim, MP	
5.	The Hon. Caleb Amisi, M.P.	
6.	The Hon. Charles Kanyi Njagua, MP	
7.	The Hon. Fabian Kyule Muli, MP	
8.	The Hon. Gideon Keter, M.P.	
9.	The Hon. James Onyango K'Oyoo, MP	
10.	The Hon. Janet Marania Teyiaa, MP	
11.	The Hon. Moses Malulu Injendi, M.P	
12.	The Hon. Nelson Koech, M.P	

No.	HON MEMBER	SIGNATURE
13.	The Hon. Ole Sankok David, MP	
14.	The Hon. Omboko Milemba, MP	
15.	The Hon. Rose Museo, MP	
16.	The Hon. Safia Sheikh Adan, MP	
17.	The Hon. Titus Mukhwana Khamala, M.P.	
18.	The Hon. Tom Mboya Odege, MP	
19.	The Hon. Wilson Sossion, MP	

**ANNEXURE 2: BILL NO. 31 OF 2020**

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 179 (National Assembly Bills No. 31)*



REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**NATIONAL ASSEMBLY BILLS, 2020**

**NAIROBI, 14th October, 2020**

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NATIONAL ASSEMBLY  
DEPARTMENT OF LEGAL SERVICES  
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NAIROBI



**THE INSTITUTE OF SOCIAL WORK  
PROFESSIONALS BILL, 2020**

**ARRANGEMENT OF CLAUSES**

*uses*

**PART I—PRELIMINARY**

- 1—Short title.
- 2—Interpretation.

**PART II—THE INSTITUTE OF SOCIAL WORK  
PROFESSIONALS**

- 3—Establishment of Institute.
- 4—Membership of the Institute.
- 5—Functions of the Institute.
- 6—Council of the Institute.
- 7—Executive Director.
- 8—Staff of the Institute.
- 9—Experts and consultants.
- 10—Delegation by the Council.
- 11—Remuneration of Council members.
- 12—Conduct of the business and affairs of the Council.
- 13—Common seal.
- 14—Protection from personal liability.
- 15—Examinations Board.
- 16—Functions of the Examination Board.

**PART III—REGISTRATION OF SOCIAL WORK  
PROFESSIONALS**

- 17—Registration Committee.
- 18—Qualifications for registration.
- 19—Disqualification from registration.
- 20—Registration of social work firms.
- 21—Application for registration.

- 22—Certificate of registration.
- 23—Removal of names from the Register.
- 24—Register.
- 25—Correction of Register.
- 26—Reinstatement to the Register.
- 27—Use of title.

#### **PART IV—PRACTICING CERTIFICATE**

- 28—Application for practicing certificate.

#### **PART V—DISCIPLINE OF MEMBERS**

- 29—Professional misconduct.
- 30—Disciplinary Committee.
- 31—Reference of matters to the Disciplinary Committee.
- 32—Inquiry by the Disciplinary Committee.
- 33—Lifting of suspension.

#### **PART VI—FINANCIAL PROVISIONS**

- 34—Funds of the Council.
- 35—Financial year.
- 36—Annual estimates.
- 37—Accounts and audit.

#### **PART VII—OFFENCES AND PENALTIES**

- 38—Holding out as a registered social work professional.
- 39—Falsification of registers or records.
- 40—General penalty.

#### **PART VIII—PROVISIONS ON DELEGATED POWERS**

- 41—Regulations.

#### **PART IX—TRANSITIONAL PROVISIONS**

- 42—Transition.

#### **SCHEDULE—PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL**

**THE INSTITUTE OF SOCIAL WORK PROFESSIONALS  
BILL, 2020**

**A Bill for**

**ACT of Parliament to provide for the establishment of the Institute of Social Work and the Social Work Professionals Board; to provide for the examination, registration and regulation of the standards and practice of social work professionals and for connected purposes**

**ENACTED** by Parliament of the Republic of Kenya as follows—

**PART I – PRELIMINARY**

1. This Act may be cited as the Institute of Social Work Professionals Act, 2020.

Short title.

2. In this Act, unless the context otherwise requires—

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to social services and education;

“Council” means the Council of the Institute established under section 6;

“Disciplinary Committee” means the committee established under section 30;

“Examinations Board” means the Social Work Professionals Examinations Board established under section 15;

“Executive Director” means the person appointed as Executive Director of the Institute under section 7;

“Institute” means the Institute of Social Work established under section 3;

“practicing certificate” means a practicing certificate issued by the Registration Committee pursuant to section 16;

“Register” means the register kept pursuant to section 16;

“Registration Committee” means the committee established under section 17; and

“social work” means the assessment, diagnosis, treatment and evaluation of individual, interpersonal and societal issues through the use of social work knowledge,

skills, interventions and strategies in connection with health, education, or social services to facilitate the achievement of optimum psychosocial functioning.

## **PART II—THE INSTITUTE OF SOCIAL WORK PROFESSIONALS**

3. (1) There is hereby established an institute to be known as the Institute of Social Work Professionals. Establishment of Institute.

(2) The Institute shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) purchasing, acquiring, holding or disposing of property;
- (c) borrowing money; and
- (d) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate.

(3) The Headquarters of the Institute shall be in Nairobi, but the Institute may establish offices at any place in Kenya.

4. (1) A person who is registered under this Act shall be a member of the Institute. Membership of the Institute.

(2) The members of the Institute shall comprise—

- (a) Fellows, being members of the Institute recognized to have rendered outstanding services to the profession of social work;
- (b) members registered under section 22; and
- (c) associate members, being persons eligible to be registered under section 22 who do not meet the requirements prescribed under subsection (1) of that section.

(3) Where the Council considers that a person, not being a member of the Institute has rendered exceptional services to the Institute or the profession of social work, the council may invite the person to become an Honorary Fellow of the Institute.

5. (1) The Institute shall—

Functions of the Institute.

- (a) establish, monitor and publish the standards of professional competence and practice amongst social work professionals;
- (b) register persons who meet the required professional and ethics standards;
- (c) promote research in social work practice and related matters;
- (d) publish books, periodicals, journals and articles on social work;
- (e) provide a medium for communication and exchange of information, knowledge and ethical standards for those persons engaged in the field of social work;
- (f) network with regional and international related bodies to promote and develop progressive social work practices;
- (g) hold examinations and prescribe tests of competency deemed appropriate to qualify for membership and certification by the Institute;
- (h) advise the Examinations Board on matters relating to examination standards and policies;
- (i) advise the Registration Committee on matters relating to registration;
- (j) regulate the practice, competence and professional conduct of social work professionals;
- (k) promote and protect the welfare and interests of the social work profession;
- (l) promote inter-professional collaboration with other professional bodies; and
- (m) carry out any other functions prescribed for it under any of the provisions of this Act or under any written law.

6. (1) The management of the Institute shall vest in a Council comprising—

Council of the Institute.

- (a) a chairperson who shall be a social work professional with at least eight years' experience

in social work education or practice, elected by the members of the Institute in the manner prescribed by regulations;

- (b) the Principal Secretary of the Ministry for the time being responsible for matters relating to health or a representative designated in writing by the Principal Secretary;
- (c) the Principal Secretary of the Ministry for the time being responsible for matters relating to correctional services or a representative designated in writing by the Principal Secretary;
- (d) the Principal Secretary of the Ministry for the time being responsible for matters relating to social welfare, the elderly and vulnerable persons or a representative designated in writing by the Principal Secretary;
- (e) five other members, who shall be persons with knowledge and experience in social work, elected by social work professionals in the manner prescribed by regulations; and
- (f) the Executive Director, as an *ex officio*.

(2) A member elected to the Institute under subsection (1)(a) and (d) shall hold office for a period of three years and shall be eligible for re-election for a further and final term of three years.

7. (1) There shall be an Executive Director of the Institute who shall be competitively appointed by the Council, and whose terms and conditions of service shall be determined by the Council in the instrument of appointment.

Executive  
Director.

(2) A person shall not be appointed as an Executive Director under this section unless such person—

- (a) is a registered social work professional;
- (b) has had at least eight years proven experience in social work; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Executive Director shall—

- (a) be the secretary to the Council;
- (b) subject to the directions of the Council, be responsible for the day to day management of the affairs of the Institute; and
- (c) be responsible to the Council generally for the implementation of this Act.

8. The Council may appoint such officers, agents and other staff as are necessary for the proper and efficient discharge of the functions of the Institute and the Council under this Act, upon such terms and conditions of service as the Council may determine.

Staff of the Institute.

9. The Council may, on the advice of the Executive Director, engage on behalf of the Institute, the services of an expert or a consultant in respect of any of the functions of the Institute in which the experts or consultant has special competence.

Experts and consultants.

10. The Council may, by resolution delegate to any committee or to any member, officer, employee or agent of the Council, the exercise of any of the powers or the performance of any of the functions or duties of the Council or the Institute under this Act or under any other written law.

Delegation by the Council.

11. The members of the Council shall be paid such, fees, allowances and disbursements for expenses as may be determined by the Council.

Remuneration of Council members.

12. (1) The conduct of the business and affairs of the Council shall be as provided in the Schedule.

Conduct of the business and affairs of the Council.

(2) Except as provided in the Schedule, the Council may regulate its own procedure.

13. (1) The common seal of the Institute shall be kept in the custody of the Executive Director or of such other person as the Council may direct, and shall not be used except upon the order of the Council.

Common seal.

(2) The common seal of the Institute, when affixed to document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization by the Council under this section shall be presumed to have been duly given.

14. No matter or thing done by a member of the Council or by any officer, member of staff, or agent of the Council shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Council under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Protection from personal liability.

15. (1) There is hereby established a Board to be known as the Social Work Professionals Examinations Board.

Examinations Board.

(2) The Examination Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) purchasing, acquiring, holding or disposing of property;
- (c) borrowing money; and
- (d) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate.

(3) The Examinations Board shall comprise—

- (a) four persons who shall be registered social work professionals nominated by the Council, one of whom shall be appointed by the Council from amongst the members of the Institute as Chairperson of the Board;
- (b) two persons nominated by the Cabinet Secretary of the Ministry for the time being responsible for education, one of whom shall be from Kenya Institute of Curriculum Development and one from the Kenya National Examination Council;
- (c) two persons nominated by the Commission for University Education; and
- (d) one person nominated by the Attorney General.

(4) A member appointed to the Board under subsection (3)(a) shall hold office for a period of three

years and shall be eligible for reappointment for a further and final term of three years.

16. The Examination Board shall—

Functions of the Examination Board.

- (a) prescribe and regulate the syllabus of instruction for social work professionals examinations;
- (b) prepare and conduct examinations for persons seeking registration under the Act;
- (c) make rules with respect to examinations;
- (d) prescribe the fees and other charges payable with respect to such examinations;
- (e) issue certificates to candidates who have satisfied examination requirements;
- (f) issue certificates and other awards to candidates who satisfy examination requirements;
- (g) investigate and determine cases involving indiscipline by students registered with the Examination Board;
- (h) promote recognition of its examinations locally and internationally;
- (i) remit a proportion of not less than thirty percent of the fees collected under paragraph (d) to the Institute to support continuing social work professional development; and
- (j) do anything incidental to the performance its functions.

### **PART III – REGISTRATION OF SOCIAL WORK PROFESSIONALS**

17. (1) There is hereby established a committee to be known as the Registration Committee comprising—

Registration Committee.

- (a) a chairperson appointed by the Council from amongst its members;
- (b) one person nominated by the Federation of Kenya Employers;
- (c) one person nominated by the Examination Board;
- (d) one person nominated by the Kenya National Examination Council; and

(e) the Attorney-General or his representative designated in writing.

(2) A member of the Committee shall hold office for a period of three years and shall be eligible for reappointment for a further and final term of three years.

(3) The Registration Committee shall—

(a) receive applications for registration and grant practicing certificates in accordance with the provisions of this Act;

(b) monitor compliance with professional quality assurance and other standards published by the Council for observance by the members of the Institute;

(c) prescribe regulations to govern quality assurance programmes, including actions necessary to rectify deviations from standards;

(d) where appropriate and based on the results of a quality assurance investigation recommend to the Council that a member's conduct be referred for inquiry; and

(e) advise the Council on matters pertaining to professional and other standards necessary for the achievement of quality assurance.

(4) The Executive Director shall serve as the secretary to the Registration Committee, and may, with the consent of the person presiding at a meeting, take part in the deliberations on any matter arising at the meeting, but shall not be entitled to vote on any such matter.

18. (1) Subject to the provisions of this Act, a person shall be eligible to be registered as a social work professional if such person—

Qualifications for registration.

(a) is of good conduct;

(b) has paid the prescribed fees;

(c) has successfully undergone a prescribed certificate, diploma, degree or research course of instruction and has passed the appropriate examination conducted or prescribed by the Institute in—

- (a) social work theory and practice;
  - (b) social psychology;
  - (c) human growth and development;
  - (d) social policy;
  - (e) social work philosophy;
  - (f) social work ethics and practice;
  - (g) social work research methods;
  - (h) sociology;
  - (i) social planning; or
  - (j) social policy administration.
- (d) has undergone a certificate, diploma, degree or research course of training and passed an examination elsewhere than in Kenya, which the Institute recognizes as equivalent to the training and instruction required in the case of persons trained in Kenya and as equivalent to the qualifications required under the Act; and
- (e) holds such other qualifications as the Council may prescribe.

(2) The Council may, by notice in the *Gazette*, approve qualifications it considers sufficient to allow a person to be registered as a social work professional.

**19.** A person is disqualified from being registered if the person—

Disqualification  
from registration.

- (a) is convicted by a court of competent jurisdiction in Kenya or elsewhere of any offence involving fraud or dishonesty;
- (b) is a undischarged bankrupt;
- (c) is certified as being of unsound mind by a medical practitioner; or
- (d) is found by the Council to be guilty of professional misconduct in accordance with this Act; and
- (e) fails to meet the requirements of Chapter Six of the Constitution.

**20.** A person may register a social work firm if—

Registration of  
social work firms.

- (a) the firm has a certificate of registration of a business name or certificate of incorporation;

- (b) the firm has at least one partner or principal shareholder who is registered as a social professional and who has a valid practicing certificate; and
- (c) the person fulfills any other condition as may be stipulated by the Council.

**21.** (1) A person wishing to be registered as a social work Professional shall apply to the Registration Committee.

Application for registration.

(2) An application under this section shall be made in the prescribed manner and form and shall be accompanied by the prescribed fee.

(3) Where an application is made by a person in accordance with this section, the Registration Committee shall approve the application if it is satisfied that the applicant meets the requirements specified under section 18.

**22.** The Registration Committee shall issue to every person registered under this Act a certificate of registration in the prescribed form.

Certificate of registration.

**23.** The Registration Committee may direct that the name of a person be removed from the register where such person—

Removal of names from the Register.

- (a) is certified to be of unsound mind;
- (b) requests that the name be removed from the register;
- (c) is convicted of an offence under this Act;
- (d) has been found guilty and his registration suspended or revoked after the conclusion of disciplinary proceedings;
- (e) has failed to renew membership; or
- (f) is declared bankrupt.

**24.** (1) The Executive Director shall maintain a Register containing—

Register.

- (a) the names of persons registered under this Act;
- (b) the names of all persons issued with a practicing certificate;

(c) particulars of the cancellation of the registration of any person; and

(d) such other details as the Council may direct.

(2) The Executive Director shall remove from the register—

(a) the name of a deceased member; and

(b) any entry which has been incorrectly or fraudulently made.

(3) The Executive Director shall cause the name and address of a person whose name is removed from the register under this section, to be published in the Gazette within one month from the date of such removal.

(4) Upon the removal of a person’s name from the register, the Executive Director shall inform the person of the removal by registered mail to the person’s last recorded address.

(5) Where the name of any person has been removed from the register under this Act, it shall not be reinstated except by the direction of the Council.

(6) A person whose name has been removed from the register shall cease to be registered for the purpose of this Act from the date of such removal.

25. The Executive Director shall make any necessary variation or correction in the register in relation to any entry.

Correction of Register.

26. Where the name of any person has been removed from the register, the Council may, either of its own motion or on the application by the person concerned made in the prescribed manner, and in either case after holding such inquiry as the Council thinks fit, direct that—

Reinstatement to the Register.

(a) the removal of such person’s name from the register be upheld; or

(b) the name of the person be restored in the register.

27. A person registered under this Act shall—

Use of title.

(a) by virtue of being so registered, be entitled to take and use the title and description of “Registered Social Work Professional”;

- (b) not take or use, or affix to or use in connection with his premises, any title or description, in addition to that of a Registered Social Work Professional, other than as indicated by the particulars relating to his or her qualifications entered in the register.

#### **PART IV – PRACTICING CERTIFICATE**

28. (1) No person shall practice as a registered social work professional unless the person has been issued with a valid practicing certificate.

Application for practicing certificate.

(2) A person wishing to obtain a practicing certificate shall apply to the Registration Committee.

(3) An application under this section shall be in the prescribed form and shall be accompanied by the prescribed fee.

(4) Where an application is made by a person in accordance with this section, Executive Director shall issue such a person a practicing certificate if satisfied that the person—

- (a) is registered under this Act; and
- (b) meets such other requirements as may be prescribed.

(5) A practicing certificate remains in force unless its holder—

- (a) is removed from the register; or
- (b) is suspended.

(6) Where a practicing certificate ceases to be in force under subsection (5), the person to whom the certificate was issued shall deliver it to the Council within thirty days from the date on which he or she ceases to be registered.

(7) Any person who, without reasonable excuse contravenes subsection (6) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings.

#### **PART V – DISCIPLINE OF MEMBERS**

29. (1) A person registered under this Act commits an act of professional misconduct if the person—

Professional misconduct.

- (a) deliberately fails to follow lawful social work procedures stipulated by his or her employer or client;
- (b) refuses, fails or neglects to apply established social work principles in the course of discharging his or her professional functions;
- (c) engages in corrupt practice;
- (d) is grossly negligent in the conduct of professional duties;
- (e) engages in negative practices such as nepotism, tribalism, racism and other acts of discrimination in the discharge of professional functions;
- (f) discloses information acquired in the course of his or her duties to any person without the consent of his employer or client or otherwise than required by law;
- (g) uses his or her position to obtain favours of a sexual kind or other benefits for which he or she is not entitled to in the discharge of professional functions;
- (h) engages in activities which are in conflict with those of his or her employer or client or activities which are contrary to those for which he is registered as a social work professional;
- (i) is found guilty of fraud or any dishonest act;
- (j) allows a person not licensed to practice to practice in his name;
- (k) enters for the purpose of or in the course of practicing as a social work professional, into partnership with a person who does not hold a practicing certificate or secures any professional business through the service of such a person or by means not open to a social work professional;
- (l) pays or allows or agrees to pay or allow directly or indirectly, any person other than a person who holds a practicing certificate, is a retired partner or the legal representative of such a partner any share, commission or brokerage out of the fees for, or profits of, his or her professional services;

- (m) expresses an opinion on any matter with which he or she is concerned in a professional capacity without obtaining sufficient information on which to base the opinion;
- (n) fails to account for client's money;
- (o) violates Chapter Six of the Constitution; or
- (p) does or fails to do any other act which may be prescribed.

**30.** (1) There shall be a Committee to be known as the Disciplinary Committee.

Disciplinary Committee.

(2) The Committee shall consist of five members appointed by the Council, from among the members of the council.

(3) The Committee shall appoint one of their number to be the Chairperson.

**31.** Where the Council has reason to believe that a registered person has committed an act of professional misconduct it shall refer the matter to the Disciplinary Committee which shall inquire into the matter.

Reference of matters to the Disciplinary Committee.

**32.** (1) The Disciplinary Committee shall afford a member whose conduct is under inquiry an opportunity to be heard in person or through a legal representative.

Inquiry by the Disciplinary Committee.

(2) For the purpose of proceedings at any inquiry held by the Disciplinary Committee, the Committee may administer oaths, and may subject to any regulations made under this Act, enforce attendance of persons as witnesses and the production of books and documents.

(3) The Committee shall, have power to regulate its own procedure.

(4) Where satisfied that a member has committed an act of professional misconduct, the Committee may recommend—

- (a) that the member be formally admonished;
- (b) that the member be suspended for a period not exceeding twelve months;
- (c) the withdrawal or cancellation of the practicing certificate of the member for such period not exceeding five years;

- (d) the imposition of a fine; or
- (e) the removal of the Members name from the Register.

(5) Upon receipt and consideration of recommendations by the Disciplinary Committee, the Council shall as soon as practicable, and in writing, inform the affected member of the disciplinary action taken against the member and provide reasons for the action.

(6) A person aggrieved by the decision of the Council in the exercise of its powers under this section may within sixty days from the date of the decision of the Council, appeal to the High Court

33. (1) Where a social work professional has been suspended from practicing; he or she may appeal to the Council for the lifting of the suspension at any time before the expiry of the suspension.

Lifting of suspension.

(2) Where the Council is satisfied that the suspension of a social work professional should be lifted, the Council shall, upon the receipt of the prescribed fee, lift the suspension and restore to the social work professional's registration and practicing certificate.

#### PART VI – FINANCIAL PROVISIONS

34. (1) The funds of the Council shall consist of—

Funds of the Council.

- (a) such monies or assets as may accrue to or vest in the Council in the course of the exercise of its powers or performance of its functions under this Act;
- (b) such monies as may be payable to the Council pursuant to this Act or any other written law;
- (c) donations, gifts and endowments from lawful organizations or sources;
- (d) proceeds of any investments by the Council; and
- (e) grants.

35. The financial year of the Council shall be the period of twelve months ending on the thirtieth of June in each year.

Financial year.

36. (1) At least three months before the commencement of each financial year, the Council shall

Annual estimates.

cause to be prepared estimates of the revenue and expenditure of the Council for that financial year.

(2) The annual estimates shall make provisions for all estimated expenditure of the Council for the financial year concerned, and in particular shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the staff of the Council;
- (b) payment of pensions, gratuities and other charges in respect of former staff of the Council;
- (c) proper maintenance of the buildings and grounds of the Council;
- (d) maintenance, repair and replacement of the equipment and other property of the Council;
- (e) payment of allowances of the members of the Council and the members of the Board; and
- (f) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Council may deem fit.

(3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate.

(4) No expenditure shall be incurred for the purposes of the Council except in accordance with the annual estimates approved under subsection (3).

**37.** (1) The Council shall cause to be kept proper books and other records of accounts of its income, expenditure, assets and liabilities.

Accounts and  
audit.

(2) Within a period of three months after the end of each financial year, the Council shall submit to the Auditor-General the accounts of the Council, in respect of that year, together with—

- (a) a statement of income and expenditure during that financial year; and
- (b) a statement of the assets and liabilities of the Council on the last day of that financial year.

(3) The accounts of the Council shall be examined, audited and reported upon annually by the Auditor-General in accordance with the provisions of the Public Audit Act, 2015.

No. 34 of 2015.

### PART VII – OFFENCES AND PENALTIES

38. A person who, not being eligible to be registered under this Act, uses any title appropriate to a person so registered, or holds himself out directly or indirectly as being so registered, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

Holding out as a registered social work professional.

39. A person who wilfully makes or causes to be made any false entry in, or falsification of, any register or record kept under this Act, or who presents or attempts to present himself or any person to be registered under this Act by making or producing or causing to be made or produced a false or fraudulent representation or declaration, either orally or in writing, commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

Falsification of registers or records.

40. A person convicted of an offence under this Act or which no penalty is provided shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

General penalty.

### PART VIII – PROVISIONS ON DELEGATED POWERS

41. (1) The Council may make regulations generally for the better carrying out of the provisions of this Act.

Regulations.

(2) without prejudice to the generality of subsection (1) the regulations may prescribe—

- (a) the curriculum and the courses of study to be pursued by the students and candidates in order to satisfy the academic requirements of any particular registration;
- (b) the experience criteria to be met by candidates for registration;

- (c) a code of ethics, rules of professional conduct and standards of practice;
- (d) the suspension, expulsion or other penalty for professional misconduct, incapacity or incompetence;
- (e) fees payable to under the Act;
- (f) forms under the Act; and
- (g) rules for the calling, holding and conducting of meetings of the board and of the members of the association.

### **PART IX—TRANSITIONAL PROVISIONS**

42. (1) The National Executive Council of the Kenya National Association of Social Workers existing before the enactment of this Act shall assume the responsibilities imposed on the Council and Registration Committee by this Act as an Interim Council and Interim Registration Committee until the first elections held under this Act.

Transition.

(2) The chairperson elected at the last annual general meeting of the Kenya National Association of Social Workers shall continue to act as chairperson of the Institute until the first elections held under this Act.

(3) Within twelve months of the commencement of this Act, the Interim Council shall facilitate the registration of members of the Institute and convene the first annual general meeting for the election of Council members.

(4) Any examinations currently being conducted by any statutory body for the purpose of qualifying as a social work professional shall be transferred to the Examinations Board within twelve months of the commencement of this Act.

**SCHEDULE**

[s. 12(1)]

**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL**

1. An office of a member of the Council shall become vacant if the member—

Vacation of office.

- (a) dies;
- (b) becomes subject to any of the disqualifications referred to in paragraph 2;
- (c) resigns the office by writing under his hand delivered to the chairperson of the Council;
- (d) is absent without the permission of the chairperson from three or more consecutive meetings of the Council;
- (e) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine;
- (f) is convicted of an offence under section which in the opinion of the Council renders him unsuitable to continue to hold office;
- (g) becomes for any reason including infirmity of body or mind, incompetent or incapable of performing the functions of the office; or
- (h) is otherwise unable to discharge his functions.

2. A vacancy in the office of a member under paragraph 3 shall be filled, by a person elected by the members of the Institute in the manner prescribed by the Regulations.

Filling of vacancy.

3. The Council shall, at its first meeting, elect a Vice Chairperson from amongst the persons elected under section 6 (1) (e) of this Act.

Vice chairperson.

4. (1) The Council shall meet at least four times in each year.

Meetings.

(2) The Chairperson may at any time convene a special meeting of the Council and shall do so within fifteen days of a written requisition for the meeting signed by at least three members.

(3) The Chairperson shall preside at all meetings of the Council, which he is present and in the case of his absence, the Vice Chairperson shall preside.

(4) At a meeting of the Council at which neither the Chairperson or Vice chairperson is present, the members of the Council present shall elect one of their number to preside, and the person so elected shall have all the powers of the chairperson with respect to that meeting and the business transacted.

5. The quorum for the conduct of the business of the Council shall be six members.

Quorum.

6. The decisions of the Council shall be by a majority of votes, and the Chairperson of the meeting shall have an original and a casting vote.

Voting procedure.

7. The validity of any proceedings of the Council shall not be affected by any vacancy among the membership thereof, or by any defect in the appointment of a member thereof.

Validity of proceedings.

8. Minutes of the proceedings at meetings of the Council shall be kept in such a manner as the Council directs.

Minutes.

9. The Council may establish such committees as may be necessary for the performance of the functions of the Council and may, subject to the provisions of this Act, delegate powers conferred on it to any such committee.

Committees of the Council.

10. Subject to the provisions of this Schedule, the Council shall regulate its own procedure.

Power of the Council to regulate own procedure.  
Disclosure of interest.

11. (1) If a member of the Council is directly or indirectly interested in any contract, proposed contract or other matter before the Council and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of objects and reasons for the Bill**

The object of this Bill is to establish the Institute of Social Work Professionals and to regulate the training registration and licensing of registered social work professionals.

**PART II (Clause 3-16)** contains provisions on the establishment of the Institute of Social Work Professionals, its Council and the Examination Board.

**PART III (Clauses 17-27)** of the Bill contains provisions on the registration and the requisite qualifications of Social Work Professionals.

**PART IV (Clause 28)** of the Bill provides for the issuance of practicing certificates to registered social work professionals.

**PART V (Clauses 28-33)** of the Bill contains provisions on the discipline of members of the Institute.

**PART VI (Clauses 34-37)** of the Bill contains financial provisions.

**PART VII (Clauses 38-40)** of the Bill contains provisions on offences and penalties.

**PART VIII (Clause 41)** of the Bill contains provisions on delegated powers.

**PART IX (Clause 42)** of the Bill contains transitional provisions.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

This Bill delegates legislative powers to the Council of the Institute to make regulations for the carrying into effect of the provisions of the Bill. The Bill does not limit any fundamental rights or freedoms.

### **Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution**

The enactment of this Bill shall occasion additional expenditure of public funds.

Dated the 12th October, 2020.

JOSHUA KIVINDA KIMILU,  
*Member of Parliament.*



**ANNEXURE 3:**

**NEWSPAPER ADVERTISEMENT**

# REPUBLIC OF KENYA



## NATIONAL ASSEMBLY TWELFTH PARLIAMENT - FIFTH SESSION

### INVITATION FOR PUBLIC PARTICIPATION & SUBMISSION OF MEMORANDA

Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders

In the Matter of consideration by the National Assembly -

- i) Institute of Social Work Professionals Bill (National Assembly Bill No. 32 of 2020)
- ii) Children (Amendment) Bill (National Assembly Bill No. 46 of 2020)

### SUBMISSION OF MEMORANDA

Article 118(1) (b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Standing Order 127(3) provides that, "the Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account views and recommendations of the public when the Committee makes its report to the House".

**The Institute of Social Work Professionals Bill, 2020 (National Assembly Bill No. 32 of 2020):** Introduced by **Hon. Joseph Kimiliu**, seeks to provide for the establishment of the Institute of Social Work and the Social Work Professionals Board; to provide for the examination, registration and regulation of the Standards, practice of Social Work and for connected purposes.

**The Children (Amendment) Bill, 2020 (National Assembly Bill No. 46 of 2020):** Introduced by **Hon. Opondo Kaluma**, seeks to amend the Children Act (No. 8 of 2001) to be in conformity with the Constitution. It further seeks to vest equal responsibility for parental care and protection of a child in both the mother and father whether they are married to each other or not.

The two Bills have undergone First Reading pursuant to Standing Order 127 (3) and stand committed to the **Departmental Committee on Labour and Social Welfare** for consideration and thereafter report to the House.

Pursuant to the provisions of Article 118(1) (b) of the Constitution of Kenya and Standing Order 127(3), the Committee invites interested members of the public to submit any representations they may have on the said Bills. The submissions may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to **clerk@parliament.go.ke**; to be received **not later Wednesday 3rd, March, 2021 at 5.00pm**.

Copies of the Bills may be downloaded from the Parliamentary website:  
<http://www.parliament.go.ke/the-national-assembly/house-business/bills>

**MICHAEL R. SIALAL, CBS**  
**CLERK OF THE NATIONAL ASSEMBLY**

**ANNEXURE 4:**

**COMMITTEE MINUTES ON THE  
CONSIDERATION OF THE BILL**

**MINUTES OF THE 42<sup>ND</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON SATURDAY, 24<sup>TH</sup> JULY, 2021 AT 10.00A.M. IN NDOVU CONFERENCE ROOM, BOMA HOTEL**

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**PRESENT**

1. **The Hon. Josphat Kabinga Wachira, M.P.** - Chairperson
2. The Hon. Ronald Kiprotich Tonui, M.P.
3. The Hon. Abdi Mude Ibrahim, M.P.
4. The Hon. Caleb Amisi, M.P.
5. The Hon. Charles Kanyi Njagua, M.P.
6. The Hon. David Ole Sankok, M.P.
7. The Hon. Fabian Kyule Muli, M.P.
8. The Hon. Gideon Keter, M.P.
9. The Hon. Nelson Koech, M.P.
10. The Hon. Omboko Milemba, M.P.
11. The Hon. Safia Sheikh Adan, M.P.
12. The Hon. Titus Mukhwana Khamala, M.P.
13. The Hon. Tom Mboya Odege, M.P.
14. The Hon. Wilson Sossion, M.P.

**APOLOGY**

1. **The Hon. Gideon Koske Kimutai, M.P.** – Vice Chairperson
2. The Hon. Janet Marania Teyiaa, M.P.
3. The Hon. Moses Malulu Injendi, M.P.
4. The Hon. Rose Museo Mumo, M.P.

**IN ATTENDANCE**

**Committee Secretariat**

- |                           |   |                        |
|---------------------------|---|------------------------|
| 1. Ms. Susan Maritim      | - | Senior Clerk Assistant |
| 2. Mr. Adan Sora Gindicha | - | Senior Clerk Assistant |
| 3. Mr. John Mugoma        | - | Clerk Assistant II     |
| 4. Mr. Ronald Walala      | - | Legal Counsel          |
| 5. Mr. James Muguna       | - | Researcher             |
| 6. Mr. Nickson Kibet      | - | Audio Officer          |
| 7. Mr. Said Mohamed       | - | Sergeant-At-Arms       |

**AGENDA**

1. Prayers
2. Preliminaries
  - i. Introductions
  - ii. Communication from the Chairperson
  - iii. Confirmation of Minutes of previous Sitings
  - iv. Matters Arising
3. **Consideration and adoption of the Report on Institute of Social Work Professionals Bill, 2020**
4. Any Other Business
5. Adjournment/Date of the next Sitting

**MIN.NO. DC/LSW/2021/208      PRELIMINARIES**

The meeting commenced at 10.00 a.m. with the Prayer followed by welcoming remarks.

**MIN.NO. DC/LSW/2021/209      ADOPTION OF THE AGENDA**

The Agenda were adopted having been proposed and seconded by the Hon. Caleb Amisi, MP and the Hon. Fabian Kyule Muli, MP respectively.

**MIN.NO. DC/LSW/2021/210      CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING**

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

**MIN.NO. DC/LSW/2021/211      CONSIDERATION AND ADOPTION OF THE REPORT ON THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL, 2020**

The Committee considered and **adopted the Report on the Institute of Social Work Professionals Bill, 2020 with amendments** having been proposed by the Hon. David Ole Sankok, M.P. and Seconded by the Hon. Tom Mboya Odege, M.P. The amendments are as follows –

<b>Clause</b>	<b>Proposed Amendment</b>	<b>Justification</b>
<b>Long Title</b>	That the long title be amended to read, “ <i>AN ACT of Parliament to make provision for the training, registration and licensing of social work professionals, to regulate their practice, to provide for establishment of the institute of social work professionals and for connected purposes.</i> ”	To offer clarity on the principal object of the Bill.
<b>Clause 1</b>	That the Act may be cited as “Social Work Professionals Act”	To capture the core professionals practice to be regulated by the Act.
<b>Clause 2</b>	Be amended by inserting the following new definition “social work professional” means “a person who, having successfully undergone a prescribed course of social work training in an approved training institution, is a holder of a certificate issued by that institution and is registered under this ACT”	To include Medical Social Workers.

<b>Clause</b>	<b>Proposed Amendment</b>	<b>Justification</b>
<b>Clause 5</b>	That paragraph 5(g) be deleted	To remove duplicity of roles in administration of examinations as the examinations Board should be responsible.
<b>Clause 6</b>	That paragraph 6(a) be amended to read, "A Chairperson who shall be a Social Work Professional with a minimum of 10 years of proven experience in Social Work education and or practice.	To encourage and attract persons with solid experience.
<b>Clause 6</b>	That paragraph 6(d) be amended to include children and Persons with Disabilities.	That paragraph 6(e) be amended by substituting "elected by social work professionals" with "elected by institute members."
<b>Clause 7</b>	That paragraph (2)(b) be amended by substituting "8 years" with "10 years"	To encourage and attract persons with solid experience.
<b>Clause 9</b>	That clause 9 be amended by deleting the words "on the advice of the Executive Director".	The advice of the Executive Director is not necessary
<b>Clause 15</b>	That Clause 15(2) be deleted.	Because it is a Board of the Council and the functions are under the functions of the Council.
<b>Clause 17</b>	That Clause 17 deleted.	Registration Committee shouldn't be legislated but should be done under internal administration. Further, it is covered under Clause (5)(1)(b) as a function of the Council and can be delegated as it's in Clause 10.
<b>Clause 18</b>	That Clause 18(1) (c)and (d) be amended by deleting the words "research course of instruction" and "research course of training"	The Committee observed that stand-alone research courses are not recognized qualifications.

Clause	Proposed Amendment	Justification
	Delete 1(c)(a to j) and re-number.	Prescription of the courses is an administrative function of the Council.
<b>Clause 20:</b>	Delete “Certificate of Incorporation” in 20(a) and “principal shareholder” in 20(b)	It will be difficult to hold persons personally accountable for professional misconduct if they had shareholders or directors in a company since a company is a separate entity from the owners.
<b>Clause 24</b>	The register should be made public and that there should be no register of schools, colleges and universities.	
<b>Clause 28</b>	Clause 28(1) Include “... unless the person has been issued with a valid practicing license renewable annually.”	
	Clause 28 (2) Delete “Registration Committee” and replace with “the Council”	
	That Clause 28(7) be deleted.	The Certificates will be renewed annually and once one is deregistered, then there should be no penalty unless it is a lifetime certificate.
<b>Clause 29</b>	Agreed to	
<b>Clause 32</b>	The Clause to be redrafted since the renewal is annually.	
<b>Clause 41</b>	Retain the word “may” as it appears in the Bill.	
<b>Clause 42</b>	Delete “ Interim Registration Committee” and insert the following – “Transitional Council shall have representatives from the following organizations”:- 1) 2 members from Association of Social Work Education in Kenya (ASWEK) 2) 2 Members from Kenya National Association of Social Workers (KNASW)	For inclusivity; to avoid favoring one Association.

Clause	Proposed Amendment	Justification
	3) 2 Members from Kenya Medical Social Workers Association (KEMSWA) NB: Chairperson will be elected from the above three Organization 4) A representative from Ministry of Labour 5) A representative from the Ministry of Health 6) A representative from Attorney General	

**MIN.NO. DC/LSW/2021/212 ANY OTHER BUSINESS**

No other business arose.

**MIN.NO. DC/LSW/2021/213 ADJOURNMENT**

There being no other business, the meeting was adjourned 1.55p.m. until 2.30 p.m., same day, same venue.

SIGNED: .....  .....

**THE HON. JOSPHAT KABINGA WACHIRA , M.P  
(CHAIRPERSON)**

DATE: ..... 03/08/2021 .....

**MINUTES OF THE 37<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY, 30<sup>TH</sup> JUNE, 2021 AT 12.00 P.M. IN THE COMMITTEE ROOM, 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS**

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**PRESENT**

1. **The Hon. Josphat Kabinga Wachira, M.P.** - Chairperson
2. **The Hon. Gideon Koske Kimutai, M.P.** - Vice Chairperson
3. The Hon. Moses Malulu Injendi, M.P.
4. The Hon. Ronald Kiprotich Tonui, M.P.
5. The Hon. Moses Malulu Injendi, M.P.
6. The Hon. Caleb Amisi, M.P.
7. The Hon. David Ole Sankok, M.P.
8. The Hon. Fabian Kyule Muli, M.P.
9. The Hon. Safia Sheikh Adan, M.P.
10. The Hon. Tom Mboya Odege, M.P.
11. The Hon. Wilson Sossion, M.P.

**APOLOGY**

1. The Hon. Janet Marania Teyiaa, M.P.
2. The Hon. Rose Museo Mumo, M.P.
3. The Hon. Janet Marania Teyiaa, MP
4. The Hon. Abdi Mude Ibrahim, M.P.
5. The Hon. Charles Kanyi Njagua, M.P.
6. The Hon. Gideon Keter, M.P.
7. The Hon. James K'Oyoo, M.P.
8. The Hon. Nelson Koech, M.P.
9. The Hon. Omboko Milemba, M.P.
10. The Hon. Titus Mukhwana Khamala, M.P.

**IN-ATTENDANCE**

**Committee Secretariat**

1. Mr. Adan Sora Gindicha - Senior Clerk Assistant
2. Mr. John Mugoma - Clerk Assistant II
3. Ms. Doreen Karani - Legal Counsel
4. Mr. Nickson Kibet - Audio Officer

**AGENDA**

1. Prayers
2. Preliminaries
  - i. Introductions
  - ii. Communication from the Chairperson
  - iii. Confirmation of Minutes of previous Sitings
  - iv. Matters Arising
3. **Consideration of the Social Assistance (Repeal) Bill, 2020**
4. Any Other Business
5. Adjournment/Date of the next Sitting

**MIN.NO. DC/LSW/2021/177      PRELIMINARIES**

The meeting commenced at 10.00 a.m. with the Prayer read by the Chairperson.

The Chairperson thereafter informed Members that the meeting was called to address the issues raised by Hon. Members on the Social Assistance (Repeal) Bill, 2020. and that the Bill was listed on the Order Paper for Second Reading.

**MIN.NO. DC/LSW/2021/178      ADOPTION OF THE AGENDA**

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. David Ole Sankok, MP and the Hon. Wilson Sossion, MP respectively.

**MIN.NO. DC/LSW/2021/179      CONSIDERATION OF SOCIAL ASSISTANCE  
(REPEAL) BILL; 2020**

Having considered the Bill on several occasions and having deliberated on stakeholders views, Members noted that –

1. There were disparities between the Social Assistance Act, 2013 and the Policy which made it difficult for the Act to be implemented and that the Fund shouldn't be under the Ministry of Labour & Social Protection as proposed in the Bill;
2. The Fund ought to be operationalized by implementing Section 35 of the Act;
3. The provisions relating to the National Social Assistance Authority are substantive provisions that do not concern funding.
4. The proposed Public Finance Management (Social Assistance Fund) Regulations, 2020 are intended to replace the Social Assistance Act, 2013 which has experienced funding challenges thereby hampering implementation of the Act.
5. The Committee considered three options- **approve** the Bill as published; **reject** the Bill; or **accept with amendments**.

The Committee therefore resolved to adjourn the meeting for further consultations with the sponsor of the Bill.

**MIN.NO. DC/LSW/2021/180      ANY OTHER BUSINESS**

No other business arose.

**MIN.NO. DC/LSW/2021/181      ADJOURNMENT**

There being no other business, the meeting was adjourned 1.05 p.m. The date of the next meeting to be called by notice.

SIGNED: .....  .....

**THE HON. JOSEPHAT KABINGA WACHIRA , M.P.  
(CHAIRPERSON)**

DATE: .....  .....

**MINUTES OF THE 20<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON FRIDAY 19<sup>TH</sup> MARCH 2021 AT 3.00PM AT ENGLISHPOINT HOTEL**

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**PRESENT**

1. **The Hon. Peter Mwathi, MP** - Chairperson
2. **The Hon. Gideon Koske Kimutai, M.P.** – Vice Chairperson
3. The Hon. James K'Oyoo, M.P
4. The Hon. Tom Mboya Odege, MP
5. The Hon. Abdi Mude Ibrahim, MP
6. The Hon. Safia Sheikh Adan, M.P
7. The Hon. Caleb Amisi, M.P.
8. The Hon. Titus Mukhwana Khamala, M.P
9. The Hon. Charles Kanyi Njagua, MP
10. The Hon. Nelson Koech, M.P
11. The Hon. David Ole Sankok, MP
12. The Hon. Gideon Keter, MP

**APOLOGY**

1. The Hon. Ronald Kiprotich Tonui, M.P
2. The Hon. Janet Marania Teyiaa, MP
3. The Hon. Rose Museo Mumo, MP
4. The Hon. Fabian Kyule Muli, M.P
5. The Hon. Moses Malulu Injendi, M.P
6. The Hon. Omboko Milemba, MP
7. The Hon. Wilson Sossion, MP

**In-Attendance**

Hon. Joshua Kivinda Kimilu, M.P – Sponsor of the Bill.

**The National Assembly Secretariat**

1. Mr. Adan Sora Gindicha -Senior Clerk Assistant
2. Mr. John Mugoma -Clerk Assistant II
3. Ms. Doreen Karani - Legal Counsel
4. Ms. Fiona Musili - Research Officer
5. Ms. Sheila Chebotibin -Sargent-At-Arms
6. Mr. Nickson Kibet - Audio Officer

**Association of Kenya Social Work Educators in Kenya**

1. Ms. Phyllis Muranguri - Technical Committee
2. Mr. Michael Waweru - “
3. Prof. Gidraph Wairire - Associate Professor UoN
4. Dr. Urbanus M. Ndolo - Technical Committee
5. Mr. Timothy Okatta - “

6. Ms. Alice Mwangi - Social Work Practitioner
7. Mr. Benjamin Mutie - Director, Kenya Institute of Social Work

**Kenya Medical Social Workers Association**

1. Mr. Tom Kangere - Patron
2. Mr. Arthur Ndungu - Chairperson
3. Mr. Kingi Chea - Medical Social Worker
4. Dr. Wilkins Ndege - Social Worker Educator

**AGENDA**

1. Prayers
2. Preliminaries
  - i. Introductions
  - ii. Communication from the Chairperson
  - iii. Confirmation of Minutes
  - iv. Matters Arising
3. **Meeting with various stakeholders to consider the Social Work Professionals Bill, 2020.**
4. Any Other Business
5. Adjournment/Date of the next Sitting

**MIN.NO. DC/LSW/099/2021: - PRELIMINARIES**

The meeting was called to order at 3.00pm and thereafter a prayer was said. This was followed with introductions.

**MIN.NO. DC/LSW/100/2021: - ADOPTION OF THE AGENDA**

The agenda of the meeting were adopted having been proposed and seconded by the Hon. Ibrahim Mude, MP and the Hon. Charles Njagua, MP respectively.

**MIN.NO. DC/LSW/102/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING**

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

**MIN.NO. DC/LSW/103/2021: SUBMISSIONS ON THE BILL BY THE STAKEHOLDERS**

**Submissions by Kenya Medical Social Workers Association**

1. Kenya Medical Social Workers Association (KEMSWA) is a registered body serving the Professional interests of Medical Social Workers across the Republic of Kenya since 1989.
2. It is registered under the Society's Act (Registration Number 37002; in the year 1989). The training of Medical Social Workers and deployment of the same across health facilities in Kenya has been and still continues to be done by the Ministry of Health since 1980.
3. It began the process of establishing a legal framework for the Training, Registration and Licensing of Medical Social Workers, to regulate their practice and to provide for the establishment of the Medical Social Workers Council of Kenya in 2018
4. KEMSWA raised the following concerns with regard to the Institute of Social Work Professionals Bill 2020 (National Assembly Bill no. 32 of 2020):-

- i). Medical Social Workers are distinct in their training and professional practice. Currently Medical Social Workers train at Kenya Medical Training College (KMTTC) at Diploma Level and Jomo Kenyatta University of Agriculture and Technology (JKUAT) at Degree level both of which are science based and not Art based.
- ii). Medical Social Workers are health care workers as recognized by Ministry of Health and the World Health Organization (WHO). Among other core courses distinct to medical social work includes anatomy and physiology, pharmacology, common diseases, psychopathology, mental health, biochemistry and health project management;
- iii). Medical Social Workers directly work with patients in health care settings and their practice is over sighted by the Ministry of Health through Kenya Health Professions Oversight Authority (KHPOA) which is the regulator in matters of health.;
- iv). The Scheme of Service for medical social workers is domiciled and administered within the ministry of health for those working in the public sector. Therefore Medical Social Workers are not part of and should not be construed as being covered by the said bill;
- v). The Bill should exclude Medical Social Workers and the title should read as follows; *An Act of parliament to provide for the establishment of the institute of social work and the social work professionals board; to provide for the examination, registration and regulation of the standards and practice of social work professionals and for connected purposes excluding Medical Social Workers;*
- vi). The recognized Cabinet Secretary in part I- preliminary, article 2 is the Cabinet Secretary responsible for matters relating to Social Services and Protection following which Medical Social Workers are excluded since they serve under the Cabinet Secretary responsible for matters relating to health;
- vii). The Kenya Medical Social Workers Association had reservations to the inclusion of the Principal Secretary Health being a member of the Council of the Institute of Social Work Professionals hence requesting the name expunged from the proposed National Assembly Bill No. 32 of 2020;
- viii). This memorandum roots for the uniqueness of Medical Social Work as a Health Profession and therefore can only be adequately covered by a specific law.
- ix). That Medical Social Workers proposed bill (Training, Registration and Licensing) be tabled in parliament and treated with due considerations as a stand-alone bill neither affected by nor affecting the Institute of Social Work professionals' gazetted bill.

#### **Committee Resolution and Way Forward.**

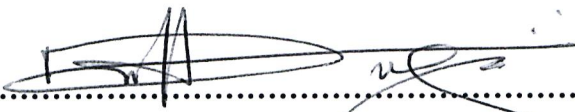
The Committee noted that the issues raised by KMSW were genuine and resolved that the concerns will be relooked at, deliberated upon and addressed during the report writing retreat.

**MIN.NO. DC/LSW/104/2021: ANY OTHER BUSINESS**

No Any Other Business Arose

**MIN.NO. DC/LSW/105/2021: ADJOURNMENT**

There being no other business, the meeting was adjourned 5.10pm

SIGNED: .....  .....

**The Hon. Peter Mwathi, M.P**

**(Chairperson)**

DATE: ..... *21/4/2021* .....

**MINUTES OF THE 19<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
LABOUR AND SOCIAL WELFARE HELD ON FRIDAY 19<sup>TH</sup> MARCH 2021 AT 9.50AM  
AT ENGLISHPOINT HOTEL**

---

**PRESENT**

1. **The Hon. Peter Mwathi, MP** - Chairperson
2. **The Hon. Gideon Koske Kimutai, M.P.** - Vice Chairperson
3. The Hon. James K'Oyoo, M.P
4. The Hon. Tom Mboya Odege, MP
5. The Hon. Abdi Mude Ibrahim, MP
6. The Hon. Safia Sheikh Adan, M.P
7. The Hon. Caleb Amisi, M.P.
8. The Hon. Titus Mukhwana Khamala, M.P
9. The Hon. Charles Kanyi Njagua, MP
10. The Hon. Nelson Koech, M.P
11. The Hon. David Ole Sankok, MP
12. The Hon. Gideon Keter, MP

**APOLOGY**

1. The Hon. Ronald Kiprotich Tonui, M.P
2. The Hon. Janet Marania Teyiaa, MP
3. The Hon. Rose Museo Mumo, MP
4. The Hon. Fabian Kyule Muli, M.P
5. The Hon. Moses Malulu Injendi, M.P
6. The Hon. Omboko Milemba, MP
7. The Hon. Wilson Sossion, MP

**In-Attendance**

Hon. Joshua Kivinda Kimilu, M.P – Sponsor of the Bill.

**The National Assembly Secretariat**

1. Mr. Adan Sora Gindicha -Senior Clerk Assistant
2. Mr. John Mugoma -Clerk Assistant II
3. Ms. Doreen Karani - Legal Counsel
4. Ms. Fiona Musili - Research Officer
5. Ms. Sheila Chebotibin -Sargent-At-Arms
6. Mr. Nickson Kibet - Audio Officer

**Association of Kenya Social Work Educators in Kenya**

1. Ms. Phyllis Muranguri - Technical Committee
2. Mr. Michael Waweru - “
3. Prof. Gidraph Wairire - Associate Professor UoN
4. Dr. Urbanus M. Ndolo - Technical Committee
5. Mr. Timothy Okatta - “
6. Mrs. Mary Chege - “

- 7. Ms. Alice Mwangi - Social Work Practitioner
- 8. Mr. Benjamin Mutie - Director, Kenya Institute of Social Work
- 9. Mr. Charles Mbugua - Technical Committee

**AGENDA**

- 1. Prayers
- 2. Preliminaries
  - i. Introductions
  - ii. Communication from the Chairperson
  - iii. Confirmation of Minutes
  - iv. Matters Arising
- 3. **Meeting with various stakeholders to consider the Social Work Professionals Bill, 2020.**
- 4. Any Other Business
- 5. Adjournment/Date of the next Sitting

**MIN.NO. DC/LSW/093/2021: - PRELIMINARIES**

The meeting was called to order at 9.50am and thereafter a prayer was said. This was followed with introductions. The Chairperson then made the following communication:-

- a) He thanked the Hon. Joshua Kimilu, M.P for sponsoring the Bill;
- b) There was need for public participation as per the Standing Orders and the CoK 2010; and
- c) The need to be objective and balanced when deliberating on the Bill.

**MIN.NO. DC/LSW/094/2021: - ADOPTION OF THE AGENDA**

The agenda of the meeting were adopted having been proposed and seconded by the Hon. Safia Sheikh Adan, MP and the Hon. Tom Odege, MP respectively.

**MIN.NO. DC/LSW/095/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING**

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

**MIN.NO. DC/LSW/096/2021: SUBMISSIONS ON THE BILL BY THE STAKEHOLDERS**

**A. The Association of Social Work Educators in Kenya submitted on the following:-**

- 1. Need to establish a Social Work Education Board
- 2. Definition of terms to include:-
  - i. Social Work Educator – “A person who has undergone requisite professional training in social work and has capacity to impart knowledge and train”
- 3. Composition of the board to include:-
  - i. One representative from CUE;
  - ii. One representative from TVET;
  - iii. Three social work educators’ representatives from key social work fields;
  - iv. One representative from the Ministry of Education; and
  - v. Social work practioner nominated by KNASW.

4. Functions of the Board to include:-
  - i. Provide oversight for social work educator's career development training.
  - ii. Promote social work research and publication.
  - iii. Advise on social work trainers' competence.
  - iv. Advise on development of social work curricula.
  - v. Provide oversight for students practicum procedures.

5. Other Concerns:-
  - i. Change of Bill's name
  - ii. Registration qualification – Categories needed – Qualification.
  - iii. Director qualification – Masters degree and 5 years experience.
  - iv. Need to include a social work educator in examination Board.

#### **B. Kenya National Association of Social Workers (KNASW)**

They submitted as follows:-

1. The Bill be amended to read “the Social Work Bill” to reflect the contents of the Bill because the terms in the reference were not inclusive.
2. The term “register” should be deleted and replaced with the “register of members”; and the insertion of “Register of Schools, colleges and universities” being those that offer social work training because there was need to categorize, identify and also give options to the training institutions which will be affected by the bill.
3. The term “institute” should be deleted and substituted with the term “Board” because the term is more accommodating and reflects diversity of the stakeholders.
4. The social work profession has never been fully recognized by the Kenyan government.
5. The profession has faced the following setbacks:
  - i). Majority of the trainers lack a full grasp of the ever changing terrain
  - ii). Lack of training materials (books)
  - iii). Trainers/academia also learn and train on the job
  - iv). Lack of mechanism to harvest new experience and roll back into the curriculum
  - v). Practitioners' networks and exchanges exist through KNASW and surpass the academia who do not have a unifying body
  - vi). Employers prefer those with specific training backgrounds and often get this from their “in house training”
  - vii). Degree/ certificate students trained supervised by non-degree holders
  - viii). With no well-established platform for the trainers it becomes difficult to regulate the training itself.

#### **Committee Recommendations**

The Committee recommended the following:-

- 1) The title of the Bill should be redefined.

- 2) "Practicing certificate" should be renamed to "practicing License" and "registration committee" to "licensing Board."
- 3) There was need to provide for academic qualifications for the holder of the office of Chairperson in order to attract and retain trained professionals in that position.
- 4) Registrar and Chief Executive Officer (CEO) should have a minimum 10 years of proven experience in Social Work Profession with qualification of minimum of a Postgraduate Degree in Social Work.
- 5) There was need to make clarification to avoid confusion as to who conducts the professional examinations.
- 6) That clause 9 should be amended by deleting 'on the advice of the Executive Director'
- 7) Clause 16(i) is not a function of the Examination Board.
- 8) Clause 29(g) – Delete 'of a sexual kind'
- 9) That the institute may hire a private Auditor to audit it.

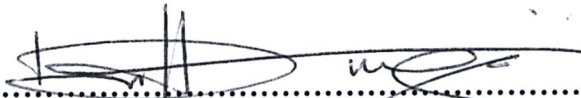
**MIN.NO. DC/LSW/097/2021: ANY OTHER BUSINESS**

No Any Other Business Arose

**MIN.NO. DC/LSW/098/2021: ADJOURNMENT**

There being no other business, the meeting was adjourned 1.50pm

SIGNED: .....



**The Hon. Peter Mwathi, M.P**

**(Chairperson)**

DATE: ..... 21/4/2021 .....

**MINUTES OF THE 17<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
LABOUR AND SOCIAL WELFARE HELD ON FRIDAY 5<sup>TH</sup> MARCH 2021 AT 2.45PM  
AT BEST WESTERN HOTEL, KISUMU**

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**PRESENT**

- |   |                    |
|---|--------------------|
| 1. The Hon. Peter Mwathi, MP            | - Chairperson      |
| 2. The Hon. Gideon Koske Kimutai, M.P.  | - Vice Chairperson |
| 3. The Hon. James K'Oyoo, M.P           |                    |
| 4. The Hon. Ronald Kiprotich Tonui, M.P |                    |
| 5. The Hon. Fabian Kyule Muli, M.P      |                    |
| 6. The Hon. Tom Mboya Odege, MP         |                    |
| 7. The Hon. Abdi Mude Ibrahim, MP       |                    |
| 8. The Hon. Safia Sheikh Adan, M.P      |                    |
| 9. The Hon. Titus Mukhwana Khamala, M.P |                    |
| 10. The Hon. Nelson Koech, M.P          |                    |
| 11. The Hon. Wilson Sossion, MP         |                    |
| 12. The Hon. David Ole Sankok, MP       |                    |
| 13. The Hon. Gideon Keter, MP           |                    |

**APOLOGY**

1. The Hon. Janet Marania Teyiaa, MP
2. The Hon. Rose Museo Mumo, MP
3. The Hon. Moses Malulu Injendi, M.P
4. The Hon. Caleb Amisi, M.P.
5. The Hon. Omboko Milemba, MP
6. The Hon. Charles Kanyi Njagua, MP

**The National Assembly Secretariat**

- |                           |                         |
|---------------------------|-------------------------|
| 1. Mr. Adan Sora Gindicha | -Senior Clerk Assistant |
| 2. Mr. John Mugoma        | -Clerk Assistant II     |
| 3. Ms. Doreen Karani      | -Legal Counsel          |
| 4. Ms. Sheila Chebotibin  | -Sargent-At-Arms        |
| 5. Mr. Nickson Kibet      | - Audio Officer         |

**AGENDA**

1. Prayers
2. Preliminaries
  - i. Introductions
  - ii. Communication from the Chairperson
  - iii. Confirmation of Minutes
  - iv. Matters Arising
3. **Clause by Clause Consideration of Institute of Social Work Professionals Bill, 2020**
4. **Consideration of the Children Amendment Bill, 2020**
5. Any Other Business
6. Adjournment/Date of the next Sitting

**MIN.NO. DC/LSW/082/2021: - PRELIMINARIES**

The meeting was called to order at 2.50pm and thereafter a prayer was said.

**MIN.NO. DC/LSW/083/2021: - ADOPTION OF THE AGENDA**

The agenda of the meeting were adopted having been proposed and seconded by the Hon. Abdi Mude Ibrahim, MP and the Hon. Tom Mboya Odege, MP respectively.

**MIN.NO. DC/LSW/084/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING**

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

**MIN.NO. DC/LSW/085/2021: CLAUSE BY CLAUSE CONSIDERATION OF INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL, 2020**

The Committee considered the Bill Clause by Clause and made the following Observations and Recommendations:-

1. Clause 5(g) There was need to make clarification to avoid confusion as to who conducts the professional examinations.
2. Clause 6(1) –
  - a) there was no rationale on the qualification of the Chairperson.
  - b) that once professional bodies from the Government are represented in the Council then it will be a State Corporation hence it qualifies for exchequer from the government.
  - c) there should be a representation from each category of academic qualification i.e certificates, degree, diploma and masters.
3. Clause 7 (1) – The Executive Director must have a degree.
4. Clause 7 (2) – The drafting language should be reviewed; it should be positive. Further, there is no academic qualification but only academic experience as a qualification for one to be appointed as an Executive Director.
5. Clauses 9 to 10 are standard clauses in a Bill.
6. That clause 9 be amended by deleting the words “on the advice of the Executive Director”.
7. Clause 14 is where personal liability applies.
8. Clause 16 – there is need to define what professional examination is i.e for registration purposes. It also mixes membership and regulations.  
Clause 16 (j) is not a function and should be moved to a different section. That clause 16 be amended by- deleting paragraphs (e), and (i)
9. Clause 18 (1)(c) was not necessary and should therefore be deleted.
10. Clause 20 be amended by deleting the words “certificate of incorporation” in paragraph (a) and “principal shareholder” in paragraph (b)
11. Clause 24: Rename practicing certificate to practicing license.
12. Clause 29 (p) should read, ‘does or fail to do any other act which may be prescribed by this Act’. Delete the words “of a sexual kind” in paragraph (g)
13. Clause 32(5) there should be a specific timelines (30 days) and not ‘as soon as possible’
14. Clause 37 (2) - the Auditor General may reconsider or may appoint a private auditor.
15. Clause 41(2)(a) be removed or deleted or amend ‘for purposes of registration.’ The word ‘may’ to be replaced with ‘shall’ as the term ‘may’ signals ‘optional’.

**MIN.NO. DC/LSW/086/2021: CHILDREN AMENDMENT BILL, 2020**

The Committee was briefed that:-

- I. The Bill seeks to amend various provisions of the principal Act to align them with the Constitution. The Bill seeks to vest equal responsibility for parental care and protection of a child in both the mother and the father whether they are married to each other or not. The Bill further provides that neither the father nor the mother of the child shall have a superior right or claim against the other in the exercise of such parental responsibility.
- II. The Act places primary parental responsibility on an unmarried mother of a child and requires a father to assume such responsibility. The amendment proposes that the unmarried parents may enter into a parental responsibility agreement.
- III. Section 25 of the Act requires that where the father and mother of a child are unmarried, the father of a child may only acquire parental responsibility over the child if he applies to the court for an order or enters into an agreement with the mother. Responsibility for the father is also presumed where the father and mother, though unmarried, cohabit for a period exceeding 12 months. The amendment does away with the entire section thus placing parental responsibility on both parents of a child by default.
- IV. Section 27(2) of the Act provides for the transmission of parental responsibility, in the event of the death of a mother, to a father who has acquired parental responsibility if the father and mother were unmarried at the time of birth of the child. Also it provides that in event of death of a father who has acquired parental responsibility, the parental responsibility is exercised by the mother. The amendment deletes the portions of the Act referring to acquisition of parental responsibility in view of the earlier amendments.

The Committee was also taken through Parental responsibilities for unmarried father in other jurisdictions like South Africa, United Kingdom, USA and Philippines.

**Committee Recommendation**

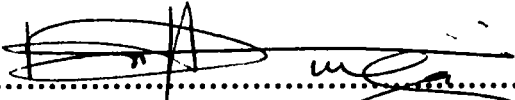
The Committee having considered the Bill Clause by Clause recommended that Clause 2, 3 & 4 be agreed to as they appear in the Bill.

**MIN.NO. DC/LSW/ 087/2021: ANY OTHER BUSINESS**

No Any Other Business Arose

**MIN.NO. DC/LSW/088/2021: ADJOURNMENT**

There being no other business, the meeting was adjourned 4.40pm

SIGNED: .....  .....

**The Hon. Peter Mwathi, M.P**

**(Chairperson)**

DATE: ..... *21/4/2021* .....

**MINUTES OF THE 16<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
LABOUR AND SOCIAL WELFARE HELD ON FRIDAY 5<sup>TH</sup> MARCH 2021 AT 11.00AM  
AT BEST WESTERN HOTEL, KISUMU**

---

**PRESENT**

- |   |                    |
|---|--------------------|
| 1. The Hon. Peter Mwathi, MP            | - Chairperson      |
| 2. The Hon. Gideon Koske Kimutai, M.P.  | - Vice Chairperson |
| 3. The Hon. James K'Oyoo, M.P           |                    |
| 4. The Hon. Ronald Kiprotich Tonui, M.P |                    |
| 5. The Hon. Fabian Kyule Muli, M.P      |                    |
| 6. The Hon. Tom Mboya Odege, MP         |                    |
| 7. The Hon. Abdi Mude Ibrahim, MP       |                    |
| 8. The Hon. Safia Sheikh Adan, M.P      |                    |
| 9. The Hon. Titus Mukhwana Khamala, M.P |                    |
| 10. The Hon. Nelson Koech, M.P          |                    |
| 11. The Hon. Wilson Sossion, MP         |                    |
| 12. The Hon. David Ole Sankok, MP       |                    |
| 13. The Hon. Gideon Keter, MP           |                    |

**APOLOGY**

1. The Hon. Janet Marania Teyiaa, MP
2. The Hon. Rose Museo Mumo, MP
3. The Hon. Moses Malulu Injendi, M.P
4. The Hon. Caleb Amisi, M.P.
5. The Hon. Omboko Milemba, MP
6. The Hon. Charles Kanyi Njagua, MP

**The National Assembly Secretariat**

- |                           |                         |
|---------------------------|-------------------------|
| 1. Mr. Adan Sora Gindicha | -Senior Clerk Assistant |
| 2. Mr. John Mugoma        | -Clerk Assistant II     |
| 3. Ms. Doreen Karani      | -Legal Counsel          |
| 4. Ms. Sheila Chebotibin  | -Sargent-At-Arms        |
| 5. Mr. Nickson Kibet      | - Audio Officer         |

**AGENDA**

1. Prayers
2. Preliminaries
  - i. Introductions
  - ii. Communication from the Chairperson
  - iii. Confirmation of Minutes
  - iv. Matters Arising
3. **Consideration of the Institute of Social Work Professional Bill, 2020**
4. Any Other Business
5. Adjournment/Date of the next Sitting

**MIN.NO. DC/LSW/076/2021: - PRELIMINARIES**

The meeting was called to order at 11.00am and thereafter a prayer was said.

The Chairperson thanked Committee Members for turning up for the retreat to considered the Bills pending before the Committee.

**MIN.NO. DC/LSW/077/2021: - ADOPTION OF THE AGENDA**

The agenda of the meeting were adopted having been proposed and seconded by the Hon. Titus Mukhwana Khamala, MP and the Hon. David Ole Sankok, MP respectively.

**MIN.NO. DC/LSW/078/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING**

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

**MIN.NO. DC/LSW/079/2021: CONSIDERATION OF THE INSTITUTE OF SOCIAL WORK PROFESSIONAL BILL, 2020**

**Brief by the Legal Counsel**

- I. That the bill seeks to provide for the establishment of the Institute of Social Work and the Social Work Professionals Board as well as the set out the examination, training, registration, licensing of registered social workers and regulation of standards and practice of social work professionals.

**Summary of Clauses**

- II. **Part I** (clauses 1-2) deals with the Preliminary issues.
  - 1) Clause 1 provides for the short title.
  - 2) Clause 2 provides an interpretation of terms as used in the context of the Bill.
- III. **Part II** (Clause 3-16) contains provisions on the establishment of the Institute of Social Work Professionals, its Council and the Examination Board.
  - 3) Clause 3 proposes the establishment of the Institute as a body corporate. The functions of the Institute are enlisted under clause 5
  - 4) Clause 4 proposes the membership of the Institute as comprising Fellows, members registered under clause 22, associate members (those eligible for registration but do not met all prescribed requirements) and Honorary Fellows(non-members who may be invited by the Council as Honorary Fellows have rendered exceptional services to the Institute or to social work).
  - 5) Clause 6 provides for the Council of the Institute, being 9 members, and a three year term of office renewable once.
  - 6) Clauses 8 and 9 provide for the recruitment of staff, agents, and officers of the institute and the engagement of consultants to render expert advice.

- 7) Clause 15 proposes the establishment of an Examinations Board to be known as the Social Work Professionals Examinations Board. Its functions are outlined under clause 16.
- IV. **Part III** (Clauses 17-27) of the Bill contains provisions on the registration and the requisite qualifications of Social Work Professionals.
- 8) Clause 17 proposes the establishment of a Registration Committee comprised of a chairperson, one representative from FKE, one representative from the Examination Board, one representation from KNEC and the AG or his representative.
  - 9) Clause 18 provides the qualifications for registration as a social work professional including good conduct, payment of prescribed fees, having undergone the prescribed courses and passed the examinations etc. on the other hand, clause 19 stipulates the disqualifying circumstances such as bankruptcy, professional misconduct, being of unsound mind etc.
  - 10) Clause 20 requires persons practicing in the style of a social work firm to register such firms with the registration committee.
  - 11) Clauses 21-23 outline the manner of applying for registration, issuance of a certificate of registration and circumstances where one may be deregistered.
- V. **Part IV** (Clause 28) of the Bill provides for the issuance of practicing certificates (PC) to registered social work professionals. It provides for the manner of application, effect of the PC, and makes it an offence to fail to return a practicing certificate that is suspended or struck off the register of certificates.
- VI. **Part V** (Clauses 29-33) of the Bill contains provisions on the discipline of members of the Institute.
- VII. **Part VI** (Clauses 34-37) of the Bill contains financial provisions noting that it specifies the sources of funds of the Council, financial year of the council, the manner of dealing with annual estimates of the council. As regards the auditing and accounts of the council, it is proposed that the financial statements be submitted to the Auditor-General for auditing and reporting as per the Public Audit Act. This provision may be reconsidered.
- VIII. **Part VII** (Clauses 38-40) of the Bill contains provisions on offences and penalties. The offences include masquerading as a social work professional and falsification of registers or records. A general penalty is proposed to apply i.e. Kshs. 200, 000 fine or 2 years imprisonment or both.
- IX. **Part VIII** (Clause 41) of the Bill contains provisions on delegated powers. The council is thereby empowered to make regulations for the better carrying out of the provisions of the Act and prescribe for matters listed under subclause (2).
- X. **Part IX** (Clause 42) of the Bill contains transitional provisions. The aim is to ensure that, for continuity and smooth transition, the Kenya National Association of Social Workers existing before the enactment of this law assumes the responsibilities of the Council and Registration

Committee in the interim until the new council members are elected under the Act. It will also ensure that the functions of other examinations bodies be transferred to the examination body under the Act within 12 months of commencement.

XI. **Schedule** –contains provisions as to the conduct of business and affairs of the council.

**Committee Observations and Recommendations**

The Committee having considered the Legal brief resolved that:-

- a) The Bill be considered Clause by Clause in the afternoon session so that Members can make general observations and recommendations;
- b) The Committee however recommended that Clause 16(i) be considered under Financial Clauses.
- c) Clause 29(a) should be redrafted to be quite definite
- d) The Committee also noted that there was a scheduled stakeholders meeting on 17<sup>th</sup> March, 2021 to consider and deliberate on the Bill.

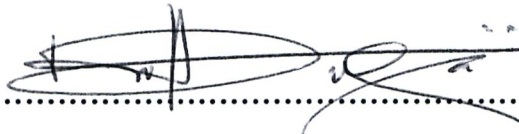
**MIN.NO. DC/LSW/080/2021: ANY OTHER BUSINESS**

**No Any Other Business Arose**

**MIN.NO. DC/LSW/081/2021: ADJOURNMENT**

There being no other business, the meeting was adjourned 1.40pm

SIGNED: .....



**The Hon. Peter Mwathi, M.P**

**(Chairperson)**

DATE: ..... 21 / 4 / 2021 .....

**ANNEXURE 4:**

**SCHEDULE OF AMENDMENTS**

# SCHEDULE OF AMENDMENTS

## LONG TITLE

The Bill be amended by deleting the Long Title and substituting therefor the following—

“AN ACT of Parliament to make provision for the training, registration and licensing of social work professionals, to regulate their practice, to provide for establishment of the institute of social work professionals and for connected purposes.”

## CLAUSE 1

Clause 1 of the Bill be amended by deleting the words “Institute of”.

## CLAUSE 2

Clause 2 of the Bill be amended—

- (a) by deleting the definition “Registration Committee”;
- (b) in the definition of “practising certificate by deleting the words “Registration Committee” and substituting therefor the word “Council”;
- (c) by inserting the following new definition in proper alphabetical sequence—

“social work professional” means a person who, having successfully undergone a prescribed course of social work training in an approved training institution, is a holder of a certificate issued by that institution and is registered under this Act”

## CLAUSE 4

Clause 4 of the Bill be amended by inserting the following new subclause immediately after subclause (3)—

“(4) The Council may make Regulations prescribing matters relating to non-practising membership that may be necessary for the promotion of the objects and the regulation of the affairs of the Institute.”

## CLAUSE 5

Clause 5(1) of the bill be amended by—

- (a) inserting the words “and issue practising certificates” immediately after the word “standards” appearing in paragraph;
- (b) deleting paragraph (i);
- (c) inserting the following new paragraphs immediately after paragraph (l);
  - (la) promote international recognition of the institute;
  - (lb) prescribe, promote and enforce the code of conduct and ethics for social work professionals;

- (lc) plan, coordinate and oversee continuous professional development and training of members;
- (ld) collaborate with training institutions, professional associations, professional organizations and other relevant bodies in matters relating to training and professional development of social work professionals;
- (le) deal with the matters of professional misconduct and discipline of social work professionals;
- (lf) prescribe the remuneration order for the social work profession;
- (lg) facilitate arbitration, mediation, conciliation or other alternative dispute resolution mechanism in any disputes referred to it concerning a social work professional in his or her professional capacity;
- (lh) establish a system of professional supervision of social workers and the appointment of supervisors for that purpose;

(d) inserting the following new sub-clauses immediately after subclause (1) –

(2) The Council may appoint such committees or panels as may be necessary to perform its functions under this Act.

(3) The Council may delegate its powers and duties, as specified in the delegation, to a committee, panel, or a member of the Council

## **NEW CLAUSE**

That the Bill be amended by inserting the following new clauses immediately after clause 5

The General Meeting.

**5A.** (1) The general meeting shall be the supreme authority of the Institute which shall approve all resolutions and important decisions of the Institute.

(2) The general meeting shall consist of all the members of the Institute.

(3) The quorum of the general meeting shall be an eighth of all the members of the Institute.

(4) The Chairperson of the Council shall preside at the general meeting and in the absence of the chairperson, the vice-chairperson shall preside at the meeting.

(5) In the absence of both the chairperson and the vice-chairperson, the Council shall nominate one among its members to preside.

(6) The expenses of the annual general meeting shall be defrayed from the general funds of the Institute.

Ordinary  
meeting.

general

**5B.** (1) The Council shall, convene an ordinary general meeting of the Institute once every year but not later than six months after the end of each year at such venue as may be determined by the Council.

(2) The Council shall present to the ordinary general meeting a full report of the activities of the Institute in the immediately preceding year.

Requisitioning a special  
general meeting.

**5C.** (1) A special general meeting of the Institute may be held —

(a) at any time;

(b) on a written request made to the Council and signed by not less than an eighth of members of the Institute specifying the object of the proposed meeting.

(2) The Council shall, within fourteen days of receiving a requisition submitted under subsection (1), convene a special general meeting of the Institute.

(3) If the Council fails, within fourteen days after the requisition, to convene a general meeting in accordance with the requisition, and specifying that it shall be held within thirty days, the members may themselves convene that general meeting to be held at any time within two months after such requisition.

Convening and  
procedure of meetings.

**5D.** (1) A meeting of the Institute shall be convened by the Council by giving to every member of the Institute a written notice—

(a) stating the place and time of the meeting; and

(b) indicating the business which it is proposed to transact at the meeting, which shall include, among other matters, the presentation of the following—

(i) a report by the Council covering the past year;

(ii) financial statements and the auditor's report thereon;

(iii) election of the Chairperson and Council members; and

(iv) the appointment of the auditor.

(2) Notice of a meeting shall be given not less than fourteen days before the date on which it is to be held to each member of the Institute by posting the notice to the address of the member last known to the Institute, or by handing the notice to the member in person.

(3) The validity of any proceedings of the Institute shall not be affected by any failure to comply with the requirement of subsection (2) of this unless it is proved that the failure to comply in relation to any member was a deliberate failure.

(4) Subject to the provisions of this Act, the manner of convening general meetings of the Institute and the procedure at a general meeting shall, be as may be prescribed, from time to time, by the Council.

Resolutions of the Institute. **5E.** (1) Except for any purpose for which a special resolution is expressly required by this Act or by any regulation made under this Act, all resolutions of the Institute in general meeting shall be by simple majority vote.

(2) In this Act a "special resolution" means a resolution passed by not less than two-thirds of such members of the Institute as may be present and vote thereon at a general meeting of the Institute, duly convened with notice of the intention to propose such resolution.

Voting. **5F.** Every member present at a general meeting of the Institute shall have one vote, and the chairperson of the Council shall also have a casting vote.

Voting procedure. **5G.** Subject to the provisions of this Act, the procedure of voting at the general meetings, shall, be as may be prescribed, from time to time, by the Council.

Alteration of resolutions **5H.** A resolution of the Institute in a general meeting shall not be altered or rescinded within nine months after the passage of the resolution without a special resolution of the Institute.

Minutes to be recorded, etc. **5I.** The Council shall cause proper minutes of all meetings of the Council and of the general meeting to be taken and recorded.

## Clause 6

Clause 6 of the Bill be amended—

(a) by deleting subclause (1)(c)

(b) in subclause (1)(d) by inserting the words “children, persons with disabilities,” immediately after the word “welfare”;

(c) by deleting subclause (1)(e) and substituting therefor the following—

“six other members, who shall be persons with knowledge and experience in social work, elected by the members of the Institute in the manner prescribed by regulations”.

(d) by inserting the following new subclause immediately after subclause (1)—

(1A) A person shall may only be elected as a Chairperson under this section is such person —

- (a) a registered member of the institute;
- (b) holds a degree in social work or a related field from a university recognized in Kenya;
- (c) has had at least five years proven experience in social work;  
and
- (d) meets the requirements of Chapter Six of the Constitution.

(e) by inserting the following new sub-clauses immediately after subclause (2)–

(3) The Chairperson or a member of the Council may, in writing addressed to the Council, resign from office and a vacancy in office may be filled in the manner prescribed by regulations.

(4) The Council may appoint such committees as may be necessary to perform its functions under this Act

(5) The Council may delegate its powers and duties, to a committee or a member of the Council.

#### **CLAUSE 7**

Clause 7 of the Bill be amended—

- (a) In subclause (2) by inserting the following new paragraph immediately after paragraph (a)—

“(aa) holds a degree from a university recognized in Kenya”

- (b) In subclause (2)(b) by deleting the word “eight” and substituting therefor the word “ten”

#### **CLAUSE 9**

Clause 9 of the Bill be amended by deleting the words “on the advice of the Executive Director”.

#### **CLAUSE 14**

Clause 14 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1); and
- (b) inserting the following new subclause after the proposed subclause (1) –

“(2) The provisions of subsection (1) shall not relieve the Institute of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Council by this Act or by any written law or by the failure, whether wholly or partially, of any works.”

## **CLAUSE 15**

Clause 15 of the Bill be amended by—

(a) deleting subclause (2);

(b) deleting subclause (3) (a) and substituting therefor the following –

“(a) A chairperson appointed by the Council from among members of the Institute;

(aa) three other members, one of whom is teaching at a University offering social work, who shall be social work professionals appointed by the Council to represent the diversity of various fields of social work practice and who reflect the gender and ethnic composition of Kenya,”

(c) inserting the following new sub-clauses immediately after subclause (4)-

(5) The Board of the Examinations Board shall regulate its own meetings.

(6) The members of the Examination Board shall be paid such allowances and disbursements for expenses as may be determined by the Council.

## **CLAUSE 16**

Clause 16 of the Bill be amended by—

(a) deleting paragraph (a);

(b) deleting paragraph (e);

(c) deleting paragraph (i).

## **CLAUSE 17**

The Bill be amended by deleting Clause 17.

## **CLAUSE 18**

Clause 18 of the Bill be amended by deleting subclause (1) and substituting therefor the following new sub-clauses —

“(1) Subject to the provisions of this Act, a person shall be eligible to be registered as a social work professional if such person-

(a) has obtained a certificate, diploma, degree in social work from a college or university recognised in Kenya;

- (b) has subsequently passed the appropriate examination required by the Institute;
- (c) is of good conduct; and
- (d) has paid the prescribed fees.

(1A) The Council shall create categories of members based on their academic qualifications and prescribe the powers of and duties that may be performed by each category.

#### **CLAUSE 19**

Clause 19 of the Bill be amended by deleting paragraph (d).

#### **CLAUSE 20**

Clause 20 of the Bill be amended—

(a) in paragraph (a) by deleting the words “of a business name or certificate of incorporation” appearing immediately after the words “certificate of registration” and substituting therefor the word “partnership”

(b) by deleting paragraph (b) and substituting therefor—

“(b) the partners in the firm hold valid practising certificates and are registered as social work professionals; and”

#### **CLAUSE 21**

Clause 21 of the Bill be amended—

(a) in subclause (1) by deleting the words “Registration Committee” and substituting therefor the word “Council”;

(b) in subclause (3) by deleting the words “Registration Committee” and substituting therefor the word “Council”;

(c) by inserting the following new subclause immediately after subclause (3) –

(4) Where an application is rejected, the Council shall inform the applicant, in writing, of its decision.

(5) An applicant who is aggrieved by the decision of the Council may apply to the Council seeking a review of the decision.

#### **CLAUSE 22**

Clause 22 of the Bill be amended by deleting the words “Registration Committee” and substituting therefor the word “Council”.

**CLAUSE 23**

Clause 23 of the Bill be amended by deleting the words “Registration Committee” and substituting therefor the word “Council”.

**CLAUSE 24**

Clause 24 of the Bill be amended by inserting the following new subclause immediately after subclause (6)—

“(7) The Executive Director shall publish and facilitate public access to the Register.”

**CLAUSE 28**

Clause 28 of the Bill be amended—

- (a) in subclause (1) by inserting the word “annual” immediately after the word “valid”;
- (b) in subclause (2) by deleting the words “Registration Committee” and substituting therefor the word “Council”;
- (c) by deleting subclause (7).

**CLAUSE 32**

Clause 32(4) (c) of the Bill be amended by deleting the words “for such period not exceeding five years”.

**CLAUSE 37**

Clause 37 of the Bill be amended—

- (a) in subclause (2) by deleting the words “the Auditor-General” and substituting therefor the words “an appointed auditor”.
- (b) in subclause (3) by deleting the words “the Auditor-General in accordance with the provisions of the Public Audit Act, 2015” and substituting therefor the words “an appointed auditor”.

**CLAUSE 41**

Clause 41 of the Bill be amended –

- (a) in subclause (1) to replace the word ‘may’ with ‘shall’.
- (b) in subclause (2) by –

(i) deleting paragraph (a) and substituting therefor the following-

“(a) the courses of study to be pursued by candidates in order to satisfy the professional requirements of registration”

(ii) inserting the following new paragraphs after paragraph (a)

(aa) the proofs to be furnished as to education, good character and experience;

(ab) the subjects for examination of candidates for registration as social workers;

(ac) rules on conduct of disciplinary proceedings;

(ad) recognition, regulation and membership status of non-practising members;

(ae) subscriptions;

(af) regulation of powers exercisable by the Council and any committees or subcommittees of the Council, and delegation of powers;

(ag) manner of convening meetings of the Council and the committees of the Council, and quorums and procedure of meetings of the Council;

(ah) manner of convening general meetings of the Institute, and quorum and procedure of general meetings;

(ai) manner of election, removal and replacement of the Chairperson, the vice-chairperson and the other members of the Council;

## **CLAUSE 42**

Clause 42 of the Bill be amended by—

(a) deleting subclause (1) and substituting therefor the following new subclause—

(1) There is hereby established an Interim Council to assume the responsibilities imposed on the Council by this Act until the first elections held under this Act comprising—

(a) one person appointed by the Cabinet Secretary responsible for matters relating to labour and social welfare;

(b) one person appointed by the Cabinet Secretary responsible for matters relating to health; and

(c) one person appointed by the Attorney General;

(d) two persons nominated by the governing body of the Association of Social Work Education in Kenya existing before the commencement of this Act;

(e) two persons nominated by the governing body of the Kenya National Association of Social Workers existing before the commencement of this Act; and

(f) two persons nominated by the governing body of the Kenya Medical Social Workers Association existing before the commencement of this Act.

(b) deleting subclause (2) and substituting therefor the following new subclause—

“(2) The members of the Interim Council under subsection (1) (c), (d), and (e) shall elect one of their number to act as chairperson of the Institute until the first elections held under this Act.”

# **STAKEHOLDERS SUBMISSIONS**

## **The Institute of Social Work Professionals Bill, 2020**

### **Introduction**

The chairman, parliamentary committee on labour and Social Welfare, Honourable members present, ladies and gentlemen. Good morning! It gives me great pleasure to once again share my great insights on the Institute of Social Work Professionals bill which has now gone through the first and second readings in parliament.

### **Social Work and National development – Vision 2030**

As I mentioned to you all when we last met here on 19<sup>th</sup> March 2021, the Institute of Social Work Professionals Bill 2020 comes at a time when Kenya's blue print for national development i.e. Kenya Vision 2030 is getting fully stabilised. A central pillar in the Kenya Vision 2030 focuses on the social sector within which various programmes and services for the Kenyan population are encompassed.

Social workers have been playing significant roles in this sector hence the envisioned law from this bill will greatly strengthen the provision of services by social workers which in turn will consolidate the overall focus of the Kenya Vision 2030. The bill takes into consideration the importance of a strong social welfare service provision in Kenya.

### **Social Work and National Development – The Big Four Agenda**

In addition, all the flagship projects in the big FOUR agenda championed by HE the president of the Republic of Kenya have some connection with social work and its contribution in National development. Social work is about empowering communities to articulate their issues and needs; it is about creating conducive opportunities that will enable the nation to realise its dreams.

We cannot therefore, have stable manufacturing without addressing the social welfare needs of the workers and their families. We cannot have sustainable food security without organising our communities and eradicating the long held notion that agriculture and other means of food production is the domain of a few, namely agrarian communities. We cannot have universal health coverage without involving social work professionals well prepared to handle the social aspects of illness without which healing is a pipedream. In essence therefore, the big four agenda among many other development initiatives have a central place for social work professionals for their maximum realisation.

### **Social work and our future**

Besides this, our tomorrow is to a great extent influenced by our children today. A society that neglects the welfare of her children is doomed. The welfare of children including their protection, family, heritage, education, medicare etc. are all better championed by social workers hence my appreciation of the child welfare society who are here with us today and whom this committee has given them an opportunity to make some inputs for this bill.

### **Social Work education and Training**

As I previously expounded, Social Work education and training in Kenya has grown tremendously since independence. Several public and private universities today have undergraduate and post graduate social work training programmes. Graduates from these

training programmes constitute the social service workforce in Kenya. The bill will help regulate the provision of social work services which have for long been provided in a disjointed manner despite the existing sound social work training programmes.

### **Social Workers and Social Work Roles and services**

Some specific roles of social workers include ; program officers, researchers, counsellors, social welfare officers, social planners, extension workers, community mobilizers, gender mainstreaming advocates, rehabilitation specialists, probation and alternative correctional officers, child welfare officers. They also work in medical and psychiatric settings as medical social workers and mental health care workers. The bill will help regulate social work practice in these areas, many of which have been infiltrated by personnel without requisite training in social work and social service. With this in place, then the social service workforce in both public and private sector will improve tremendously alongside the social service beneficiaries.

### **Need for this Bill**

Professionalized social work services in the social service sector will now be prioritized, enhanced and ensured once the bill becomes law. Social workers rendering these services will be required to operate in conformity with the values of their profession and the ethical standards therein. If put in place, then the value and quality of service provided will improve and the dignity of the clients served enhanced. This will also provide sound service ethos in the social service sector just as it happens in other professional services like engineering, human resource, law, medicine etc.

A major outcome of the bill is that it will provide the government through the line ministries where social work services are provided with tangible indicators for performance contracting of their staff in the social service sector. The specified sections in the bill for additional training for those wishing to serve as social workers is an important provision for staff development of social service professionals in Kenya. This will therefore make the staff more accountable and provide clear measures to streamline social service provision in Kenya.

Equally important in this is the fact that with the passing of this bill, social work services in Kenya will now be more acceptable and respected just as it happens in other countries that have social work act in place like the USA, Zimbabwe, South Africa among others.

The bill will also bring order and provide tangible mechanisms to address cases of indiscipline or misconduct among some in the social welfare workforce. The regulations in place and the structures specified in the bill to address such cases will in turn ensure that social welfare services by social workers are rendered in a highly professionalised manner. This, by extension, will enhance discipline and commitment of social welfare staff in the civil service and in the private sector.

Social workers are key agents of change in Kenya's devolved governance structure with regard to the implementation of government social and welfare policies at the national level and in county governments where they serve as community development officers and mobilizers, social protection officers, social development officers.

### **Summary of benefits of the proposed Social Work Professionals Act**

- The Social Work profession in Kenya can thrive better if it is regulated by law as is the case with other professions like law, medicine, engineering etc.
- The Social Work Act will ensure that the contribution of Social Workers towards Kenya's socio-economic development is recognized through professional delivery of social services.
- Social workers will be empowered to effectively contribute to the government's development agenda and the social welfare obligations for the people of Kenya as specified in the 2010 Constitution of Kenya.
- The act will also solidify the broad contributions of social workers in the social pillar of the Kenya vision 2030 and in the governments big four agenda.
- The act will give the social work practitioners a stronger voice in the efforts towards the realization of the global sustainable development goals of which Kenya is a signatory and is committed to.
- Through the Social Work Act, social work practitioners and consumers of social work services will be protected from unethical and incompetent personnel who have over the years undertaken social work responsibilities with negative effects on social work clientele.

#### **Benefits to the social work practitioners**

- Social work practitioners will be well regulated in terms of training and practice and will be able to have their practice entitlements like licensing and proper registration in line with the global trends for social work profession.
- Social work services can be accessed and/or delivered effectively and efficiently since clear ethical code of practice that governs professional social workers in their practice will be adhered to.
- The title Social Worker shall be protected and reserved to social work professionals with requisite training, and sound social work value base to offer professional services.

#### **Conclusion**

As I conclude, I wish to state that my team has worked on the recommendations that were suggested in order for this bill to be more holistic and inclusive of other significant stakeholders. We have been able to include the inputs of the medical social workers as advised by this committee during our last session here. We are very much willing to network with other stakeholders in social work in order to have a strong social welfare service in Kenya.

The proposed Social Work Professionals Act therefore, is crucial for maximum enhancement of professional social work services in Kenya hence my plea for full support of this bill and subsequently, an act of parliament for regulated social work practice in Kenya.

Thank You.

Signed.....

Hon. Joshua K. Kimilu

1<sup>st</sup> September 2021



**MINISTRY OF HEALTH  
OFFICE OF THE PRINCIPAL SECRETARY**

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Email: [pshealthke@gmail.com](mailto:pshealthke@gmail.com)

AFYA HOUSE  
CATHEDRAL ROAD  
PO Box 30016-00100 NAIROBI

Ref. No. MOH/ADM/NA/01/93/VI

22<sup>nd</sup> March 2021

Mr. Michael Sialai, EBS  
The Clerk of National Assembly  
P.O BOX 41842-00100  
**NAIROBI**

Dear Sialai

**RE: DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE: CONSIDERATION OF THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL, (NATIONAL ASSEMBLY BILL NO. 32 OF 2020).**

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This is in reference to your letter dated, 15<sup>th</sup> March, 2021 Ref NA/DCS/LSW/2021(010) regarding the above subject.

Medical Social Work Cadre in health sector forms part of the Multidisciplinary team that provides frontline healthcare services to patients and their families to help alleviate the social, psychological and financial hardships that arise during diagnosis and management of their illness. Medical Social Work in Kenya was started out of a need as health is not considered complete without the social perspective of a patient/client according to WHO definition of health.

The training of medical social workers was first initiated by the government in the early 1980s whereby a few officers were trained and later absorbed by the ministry of Health. Currently, the officers are being trained at KMTC after a consultative meeting was held between the MoH, KMTC, Kenya Medical Social Workers association and other relevant stakeholders to ensure quality training, professionalism and skilled workforce in health facilities across the country.

In view of the above, the Ministry of Health wishes to make the following submissions:-



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No.	CLAUSE/ITEM	JUSTIFICATION
1.	The recognized Cabinet Secretary in part I- preliminary, article 2 is the Cabinet Secretary responsible for matters relating to Social Services and Protection.	Medical Social Workers serve under the Cabinet Secretary responsible for matters relating to Health and not Cabinet Secretary for Social Services and Protection
2.	The inclusion of the Principal Secretary of Health as one of the managers of the Council of the Institute of Social Work Professionals in Article 6 (I) (b).	is objected, as Medical social work is part of healthcare professions with distinguished services and the cadre is not part of the proposed bill.
3	Medical Social Workers typically work in hospital facilities and other healthcare related settings and work with patients and their families in need of psychosocial help.	Medical Social Workers assess the psycho social functioning of patients and their families and intervene as necessary. Their role is to restore balance in the client's personal, family and social life in order to help maintain or recover his/her health and strengthen their ability to adapt and reintegrate into the society.
4.	Medical Social workers forms part of multi-disciplinary health care team that offers psycho social services to patients, their families and significant others.	Medical Social Workers, work collaboratively with other health care team such as Doctors, Nurses, occupational Therapists, Physiotherapists, Psychologists, Nutritionist among others to conduct assessments on the patient's social, emotional, environmental, financial and other support needs and informs other healthcare team as these factors may affect the patient's health and wellbeing.
5.	Medical Social Workers collaborate with other service providers/agencies to develop a plan of care and after care services for patients.	Medical Social workers plays a crucial role in discharge planning to ensure that the patients' needs are taken care of even after the patient has been discharged to the community. They link patients to organizations where they can get after care support.
6.	Medical Social Workers are distinct in their training and professional practice.	Medical Social Works are currently being trained at Kenya Medical Training College (KMTTC) at Diploma Level and JKUAT is also admitting bachelors of science Degree in Medical Social Work, both of which are science based and <b>NOT Art based</b> . Among other core courses distinct to medical social work includes anatomy and physiology, pharmacology, common diseases,



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		psychopathology, mental health, biochemistry and health project management. Therefore, Medical Social Workers are health care workers as recognized by Ministry of Health and the World health organization (WHO).
7.	The Scheme of Service for medical social workers is domiciled and administered within the Ministry of Health for those working in the public health sector just like other health care professionals working under the Ministry of Health.	Medical Social Workers practice is oversighted by the Ministry of Health through Kenya Health Professions Oversight Authority (KHPOA) which is the regulator in matters related to health. Therefore, Medical Social Workers are part of the Human Resource for Health and should not be construed as being covered by the proposed bill.

In conclusion therefore, it is evident that Medical Social Work is a Healthcare based Profession and can only be adequately covered by a specific laws and regulations. The Kenya Medical Social Workers Association proposed bill currently in parliament (Training, Registration and Licencing) should be considered as a standalone bill and should be processed through **Parliamentary Health Committee and NOT Labour and Social Services Committee.**

Yours sincerely



Susan N. Mochache, CBS  
**PRINCIPAL SECRETARY**



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**MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT**

**STATE DEPARTMENT FOR CORRECTIONAL SERVICES**

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*Adan Gudiha*  
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KENYA

**SDC/ SEC/ADM/1/86/II/114** *22<sup>nd</sup> March 2021*

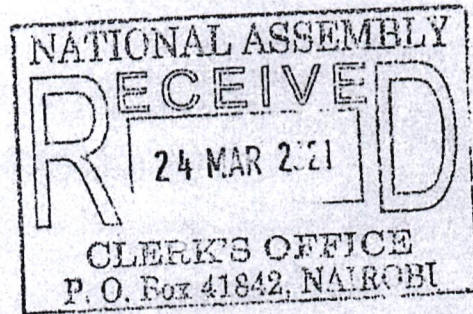
*24/3/21*

**The Clerk**

National Assembly  
Clerk's Chamber  
Parliament Buildings  
P.O. Box 41842-00100  
**NAIROBI**

*D/DC*

*24/3/21*



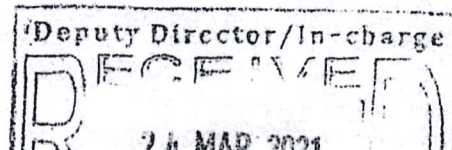
Dear

**DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE: CONSIDERATION OF THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL (NATIONAL ASSEMBLY BILL NO. 31 OF 2020)**

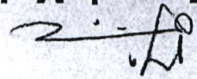
Reference is made to your letter Ref No. NA/DCS/LSW/2021(008) dated 8<sup>th</sup> March 2021 on the above subject matter, requesting the State Department to make submissions on the said Bill.

It is observed that the bill touches on the mandate of the State Department with regards to containment, rehabilitation, treatment and reintegration of offenders which generally employs social work principles. In addition, it relates to Prison and Probation officers with sociology and social work educational background hence relevant.

Enclosed please find the submissions to that effect for your consideration.



A soft copy of the same has been submitted to your email  
gindichaz2006@yahoo.com as advised in your letter.



**Joseph M. Kirubi, MBS**  
**For: PRINCIPAL SECRETARY**

**Encl: The State Department for Correctional Service Submissions On The  
Institute Of Social Work Professionals Bill**



**THE STATE DEPARTMENT FOR CORRECTIONAL SERVICE  
SUBMISSIONS ON THE INSTITUTE OF SOCIAL WORK  
PROFESSIONALS BILL  
(NATIONAL ASSEMBLY BILL NO. 32 OF 2020)**

**DATED 23<sup>rd</sup> MARCH 2021**

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## Background

The State Department for Correctional Services falls under the Ministry of Interior and Coordination of National Government as per the Executive Order No. 1 of June 2018 (Revised). The State Department comprises of two technical departments namely; Kenya Prisons Service and the Probation and After-Care Services, supported by General Administration and Planning Service

The Mandate of the State Department for Correctional Services include:

- Containment and safe custody of inmates;
- Supervision, Rehabilitation, reformation and reintegration of offenders;
- Facilitation of the administration of justice;
- Treatment of young offenders in Correctional Institutions and Youth Corrective Training Centers;
- Provision of facilities for children aged four years and below accompanying their mothers in Prison; and
- Generation and provision information to courts and penal institutions

The work undertaken by the Probation Officers and Prison Officers in relation to rehabilitation, treatment and reintegration of offenders encompasses application of individualized social work genres of casework, group work and community work within the applicable legal framework in dealing with social problems driving offenders into crime.

Currently the staff entering probation practice are university graduates trained in the areas of Social Work, Social Psychology and counselling, Criminology, and Sociology. Prison Service as well employ officers from these same backgrounds as cadet officers.

Social work in the State Department entails professional application of shared social work values, principles, and techniques (including assessments, interventions and programming of offenders and prisoner) while addressing individual and family needs, and in helping communities deal with deviant behavior. Incorporation of

scientific practices such as risk and needs assessment to understand the psychology of criminal conduct is a key practice in management of the offenders.

Laws or regulations touching on social work will therefore directly affects the State Department for Correctional Services applying social work methods (among others) in dealing with management of offenders and prisoners. The below recommendations are proposed hereby;

**Proposed amendments to the Institute for Social Work Professional National Assembly Bill No. 32 of 2020**

S/N	ORIGINAL PROPOSAL	PROPOSED AMENDMENT	JUSTIFICATION/RATIONAL FOR AMENDMENT
1.	<p><b>The long title provides for...</b>                      “the establishment of social work institute, social professional board; examination.....”</p>	<p><b>Amend the long title to read</b>                       ...” to provide for social work professionals, establishment of the institute of social work, social work professional board, regulation and registration of standards and practice of social work professionals and for connected purposes</p>	<p>“The main subject of the Act is the social work professionals and how to regulate them therefore it should be predominantly provided for as the premise of the Act. The examinations is one of the processes embodied in the regulations hence can be incorporated in the main Act.</p> <p>- Further, Providing for examinations in the long title leaves out other examination bodies such as KICD, KNEC and tertiary colleges which provide social work education hence limiting.</p>
2.	<p><b>Section 1 on the short title provides</b>                      This Act may be cited as the Institute of Social Work Professionals</p>	<p>The Sections should be amended to read;</p>	<p><b>Changing the short title to</b>                      “Social Work Professionals Act” will capture all the social work professionals across all sectors and not just an institute.</p>

<p>Names of ministries continuously change with new regimes hence using the subject matter as opposed to name of ministry caters for future and current circumstances.</p> <p>▪ Equally, protection is a relative term which may also mean security. In this context, we are looking at Social Work and not security.</p>	<p>Or matters of social work”</p> <p>matters of labor responsible for</p> <p>“Cabinet Secretary</p> <p>redraft to read</p> <p>relating to social services and social protection and</p> <p>Delete the words ..</p>	<p>SEC. 2 .. “Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to social services and social protection</p>	<p>3.</p>
<p>The institute can be a section in the Act as one of the structures for management and certification of the social workers</p>	<p>“This Act may be cited as Social Work Professionals Act”</p> <p>There is need to define the objective of the Act, identify which gap the law seeks to address and then establish the grounds.</p> <p>-Comparative analysis should be conducted for best practices to inform the law</p>		

4. **Sec. 2 definition of the term "social work" to mean...** the assessment, diagnosis, treatment and evaluation of individual, interpersonal and societal issues through the use of social work knowledge, skills, interventions and strategies in connection with health, education or social services to facilitate the achievement of optimum psychosocial functioning

**Delete the words** "in connection with health education, or social services "

**The definition of the term 'social work' should read**

**" social work" to means...** the assessment, diagnosis, treatment and evaluation of individual, interpersonal and societal issues through the use of social work knowledge, skills, interventions and strategies to facilitate the achievement of optimum psychosocial functioning

**OR**

*....the knowledge and professional practice of change interventions with individuals, groups, families and communities in order to improve their optimal human functioning and*

- Mentioning the parameters to which social work relates and not defining what is meant by term 'social services', leaves out a majority of sectors such the criminal justice/corrections system, community development and other organizations whose work may be affected by the provisions of the bill
  
- Defining the term social work professional will strengthen the purpose of the bill and address the entire spectrum of social work holistically

<p>It may be challenging for the institute to monitor a Social Worker in the criminal justice system such as probation Service, Prisons or those in the community or county government without a coordination mechanism.</p>	<p>insert a new subsection (2) of section 5 which will speak to the need for the Institute to coordinate with National and County governments and other non-state actors with Social workers.</p>	<p>5.2. Section (5) (1) (f) on Functions of the institute provides that  <i>...regulate the practice, competence and professional conduct of social work professions</i></p>	<p>6.</p>
<p>Providing for Membership to the profession and not an the institute embodies all the spheres of social work hence serving the wider purpose of creating professionalism in social work</p>	<p><b>Amend to read</b>  'A person who is registered under this Act shall be a recognized as a Social work Professional'</p>	<p>Section 4(1) provides for membership of the institute as follows:  'a person who is registered under this Act shall be a member of the Institute.'</p>	<p>5.</p>
<p>There is also need to define the term social work professional as:</p>	<p><i>psychosocial wellbeing.</i>  a professional who applies knowledge and technical skills in building competencies and supporting adults, children, families and communities in difficult circumstances to protect their rights and improve their wellbeing'</p>		

			There is need to also have a clause on complaint mechanisms
7.	<b>Section (6) on eligibility of the chairperson</b>	<p>Amend the criteria of eligibility for the chair of the Institute from <i>8 years to 15 years, one with a distinguished career as a social and one who meets the objects of Chapter six of the Constitution on leadership</i></p> <p>or</p> <p>to a level equivalent to that of the high level government officials who are members of the council i.e Principle Secretaries</p>	<ul style="list-style-type: none"> <li>- A person having about 15years experience is assumed to have attained the requisite leadership competencies beyond the professional courses, has gained experience in managerial positions, has capacity to handle high level assignment hence capable of handling the members of the committee</li> <li>- A person with a distinguished career in the field of social work ensures familiarity with the subject matter and ease of decision making</li> <li>- The person should also have a high standing in the society besides professional experience to comparable to high level government officials like PS's who are members</li> <li>- Meeting the objects of chapter six of the Constitution is a requirement by law</li> </ul>
8.	<b>Section(s) 5,6 and 17</b> the sections establishes an institute, a council, a board and a committee.	The sections should be harmonized by using Mwongozo guidelines that governs establishment of	The roles of these structures are similar in that they all seek to regulate an aspect of social work hence leads to duplicity

<p>9.</p>	<p>Section 7 Executive Director does not have an eligibility and removal clauses , it also does not stipulate any criteria for appointment of the Director</p>	<p>Amend by Inserting Ineligibility clause for appointment as Council Chairperson under section 7(1) to read as follows;  A person shall not be qualified for appointment as the chairperson or as a member if the person—  (a) Is a member of a governing body of a political party.  (b) Is an undischarged bankrupt  (c) Has been convicted of a criminal offence connected to a social work area or establishments and sentenced to a term of imprisonment (d)Has been removed from any public office for contravening</p>	<p>Boards, Councils and committee to avoid duplicity</p>
<p>- An ineligibility clause gives grounds for eliminating the wrong candidates from the onset</p>			

		<p>the provisions of the Constitution or any other written law (e) is a member of Parliament or county assembly, or (f) Has not met his or her legal obligations relating to tax and other statutory obligations.</p> <p>Insert a removal clause</p> <p><b>Insert a Section (7), Subsection (2)</b> defining the eligibility criteria for the appointment of Executive Director <b>The criteria should include</b> experience of 10 years. (image, attitude and perception). 8 years is such a short time</p>	<ul style="list-style-type: none"> <li>- Experience of 10 years and above ensures that the eligible person has gained expertise besides academics, practice Skill (competencies, experience) and character requisite for the role</li> <li>- A removal clause prevents perpetual occupancy of office that may perpetrate wrong leadership, it is also a check and balance mechanism to promote good governance, it serves to promote furtherance of the purpose of the Act and adherence to the objects of the Constitution</li> </ul>
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<p>Insert Sub section 3 of section (7) on Removal of Executive Director from office . The sub section should read as follows;</p> <p>(1) The Executive Director may be removed from office by the Council in accordance with the terms and condition of service, for—</p> <ul style="list-style-type: none"> <li>• (a) Inability to perform functions of the office arising out of physical or mental infirmity</li> <li>• (b) Gross misconduct or misbehaviour</li> <li>• (c) Incompetence or negligence</li> <li>• (d) Violation of the Constitution and any other written law or</li> </ul>		
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		<ul style="list-style-type: none"> <li>(e) Any other grounds specified in the terms and conditions of service of Executive Director</li> </ul>	
10.	<p><b>Section (10) on Delegation of functions provides that</b></p> <p>‘The council may by resolution delegate to any committee or any member, officer, employee or agent of the council , the exercise of any of the powers or the performance of the functions or duties of the Council or the institute under this Act or under any other written law’</p>	<p>Amend the section to reduce the power of delegation to a reasonable latitude that is justifiable depending on the relevance of the function, power or duty to the body or person being conferred to the mandate.</p>	<ul style="list-style-type: none"> <li>- Some powers, duties or functions may be done by either a committee only or a person of a particular competence hence the latitude of delegation cannot be generalized.</li> <li>- There has to be checks and balances with clear grounds in delegation of powers to avoid abuse of power, discrimination, conflict of interest and other negative practices</li> </ul>
11.	<p><b>Section (15) Establishment of an Examination Board as a body cooperate</b></p>	<ul style="list-style-type: none"> <li>- Amend the section by removing the aspect of body cooperate since the board shall be operating under the institute and the council which are also body cooperates</li> <li>- Insert a clause that will ensure the examinations offered are patented to the genre of social</li> </ul>	<ul style="list-style-type: none"> <li>- having multiple body cooperates introduces independence which may be grounds for conflicts if the body cooperates are interdependent or a working as a conveyor belt. One can be incorporated in the other.</li> <li>- Difference social work fields require different standards for professionalism to be achieved hence should be part of the examinations and courses offered to meet professional standards</li> </ul>

<p>work a professional is performing in the institution they are working for because there is no one size fits all across sectors</p> <p>- a clause that in</p>	<p>Remove the word 'candidates' coming after the word 'issue'.</p>	<p>12. Section (16) Examination Board</p>	
<p>This is to create clarity with the preceding clause</p> <p>The clause should only be for AWARDS not for scholastic examinations but for professionalism</p>	<p>The Registration committee seem to assume that Social workers will only be from the private sector.</p> <p>The Section should be amended to include social workers in the public service by incorporating the public service Commission</p>	<p>13. Section 17: (1)</p>	
<p>work a professional is performing in the institution they are working for because there is no one size fits all across sectors</p> <p>- a clause that in</p>	<p>enjoin the Council, Examination Board, KICD and KNEC</p> <p>(18) (c) Delete the word OR coming between degree</p>	<p>14. Section 18 (1)</p>	
<p>work a professional is performing in the institution they are working for because there is no one size fits all across sectors</p> <p>- a clause that in</p>	<p>enjoin the Council, Examination Board, KICD and KNEC</p> <p>(18) (c) Delete the word OR coming between degree</p>	<p>14. Section 18 (1)</p>	

		and research and replace with the word <u>AND</u>	course areas or levels of certification.
15.	<b>Section 20:</b>	<ul style="list-style-type: none"> <li>- This section should be Cross referenced with the companies act</li> <li>- Insert the word <u>WORK</u> between social and professional</li> </ul>	<p><b>This is in order to ensure it conforms to the provisions relating to registration and establishment of companies</b></p> <p><b>To address the typographical error</b></p>
16.	<b>Section (23) (c) –</b>	-after the word ACT and the semicolon- Insert the words <i>or any criminal offence deemed by the Registration committee to be in conflict with the practice of social work or if that offence was of personal nature and committed against a client</i>	<b>This to disqualify only those whose transgressions are in conflict with the social work practice and not generally all offences. This will ensure avoidance of stigmatization and incorporating offences not relevant to social work. It will also confirm to international practice</b>
17.	<b>Section 28(1) Practicing Certificate (for Social workers in Public Service)</b>	This needs further discussion to address social workers who are public servants	all social workers in the country will be required to have a practicing certificate. Does that mean that those in the public service or probation Service would not be allowed to do social work without the certificate?
18.	<b>Section 28 (7).</b>	Amend to incorporate a default clause in case the fine is not met E.g. in default to serve a	every fine penalty must be accompanied by a default clause. This is the unwritten penal policy in Kenya and it will conform, to all other penal

<p>term not exceeding 1 year.</p>	<p>Public servants adhere to Civil servant's code of regulation and disciplinary processes within the service which the proposed bill fails to recognize. Does this amount to possible double jeopardy?</p>	<p>This section will incorporate the entire provision of section 32(4) of the bill while enriching</p>
<p>statutes and provisions in other laws</p>	<p>Public servants adhere to Civil servant's code of regulation and disciplinary processes within the service which the proposed bill fails to recognize. Does this amount to possible double jeopardy?</p>	<p>This section will incorporate the entire provision of section 32(4) of the bill while enriching</p>
<p>Discipline of members (sections 29, 30, 31)</p>	<p>harmonized the sections with the Public Service Commission Act and HR manuals</p> <p>-insert a specific clause on code of conduct: (1) 'registered members and the employees of the Social work profession shall subscribe to the code of conduct set out in the Schedule (or issued to them at the time of registration)' - <i>adjust accordingly.</i></p>	<p>Section 30 on disciplinary committee</p>
<p>19.</p>	<p>Discipline of members (sections 29, 30, 31)</p>	<p>Section 30 on disciplinary committee</p>
<p>20.</p>	<p>Section 30 on disciplinary committee</p>	<p>Section 30 on disciplinary committee</p>

REPUBLIC OF KENYA



*Adan Gundiha*  
*pls facilitate consideration*  
*W.M.V*  
*25/3/21*

**MINISTRY OF LABOUR AND SOCIAL PROTECTION  
OFFICE OF THE CABINET SECRETARY**

Tel: +254 (0) 2729800/2727980-4  
Fax: +254 (0) 2726222/2734417  
Email: cabinetsecretary@labour.go.ke  
When replying, please quote

Social Security House, Bishops Road  
P.O. Box 40326/16936 - 00100  
Nairobi  
KENYA

**Ref. ML&SP/SP/37/1**

**23<sup>rd</sup> March, 2021**

**Michael R. Sialai, EBS**

Clerk to the National Assembly,  
Clerk's Chambers, National Assembly  
Parliament Buildings  
P. O. Box 41842-00100

**NAIROBI**

*DDC*  
*25/3/21*

Dear, *Cherix*

**RE: DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE:  
CONSIDERATION OF THE INSTITUTE OF SOCIAL WORK PROFESSIONALS  
BILL, (NATIONAL ASSEMBLY BILL NO.32 OF 2020)**

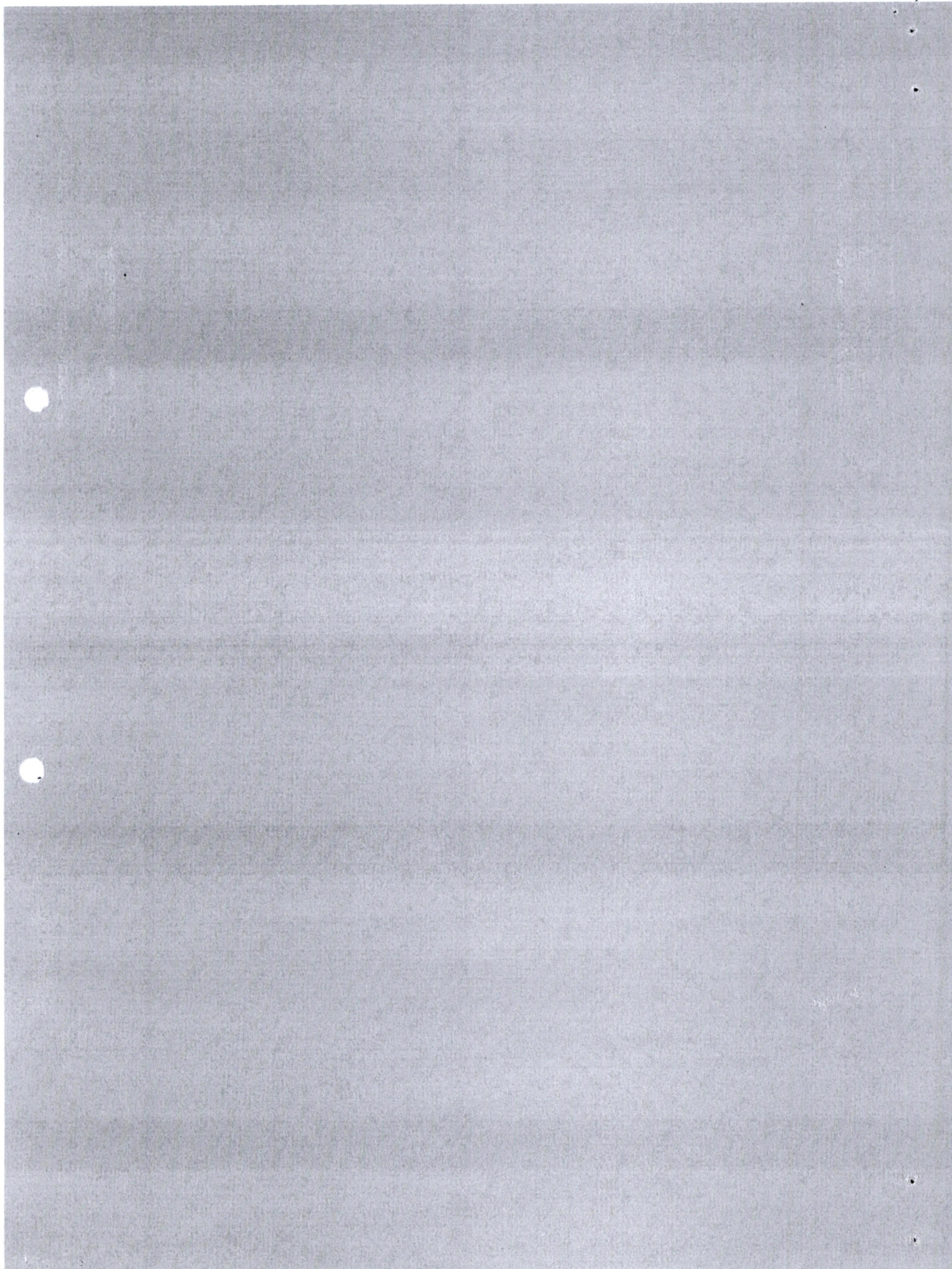
Reference is made to your letter Ref: NA/DCLSW/2021(010) dated 15<sup>TH</sup> March, 2021 on the above subject matter.

Kindly find attached a Memorandum from the Ministry of Labour and Social Protection, on the Institute of Social Work Professionals Bill (National Assembly Bill No.32 of 2020).

Yours,

**Simon K. Chelugui, EGH  
CABINET SECRETARY**

NATIONAL ASSEMBLY  
**RECEIVED**  
24 MAR 2021 Deputy Director/in-charge.  
**RECEIVED**  
CLERK'S OFFICE  
P. O. Box 41842, NAIROBI 25 MAR 2021  
Directorate of...



**Republic of Kenya**



**MINISTRY OF LABOUR AND SOCIAL PROTECTION  
STATE DEPARTMENT FOR SOCIAL PROTECTION**

**STATEMENT ON THE INSTITUTE OF SOCIAL WORK  
PROFESSIONALS BILL NO 32 OF 2020 PRESENTED BY THE  
CABINET SECRETARY, MINISTRY OF LABOUR AND SOCIAL  
PROTECTION TO THE DEPARTMENTAL COMMITTEE ON  
LABOUR AND WELFARE**

The Ministry of Labour and Social Protection in 2019 embarked on a journey to strengthen the Child Protection Social workforce. The framework for strengthening the workforce envisages a well-trained and empowered Child protection workforce regulated through a professional body. Already, there is a curriculum in place anchored at the Kenya School of Government (KSG) through a Memorandum of Understanding signed between the State Department for Social Protection and KSG. All Children Officers employed by the Ministry and child protection practitioners working in the Civil Society Organizations are expected to undergo the training. To date 90 Children officers have undertaken the course.

The Institute of Social Work Professionals, Bill 2020 is timely and welcomed. The Ministry views it as an opportunity to professionalize the social work and welfare sector including child protection sector and its workforce. Those who handle children should have a certificate/license like other professions e.g. medical doctor and nurses. Much harm has been done to children by those self-

claimed social workers on the ground, who do not have the requisite training and ethical standards.

The Ministry unreservedly welcomes the proposed Bill. The Institute of Social Work Professional Bill, 2020 present a unique opportunity for the children's sector in view of the direction that the Government is taking towards strengthening and professionalizing the workforce in the sector. To further have the Bill capture the interest of the Children sector, the Ministry proposes the following;

1. To capture the Children Sector as a key area for Social work practitioners both at the professional and Para professional level, we propose that Membership of the Council of the Institute recognize this by amending section 6(d) to read;

*The Principal Secretary of the Ministry for the time being responsible for matters relating to social welfare, children, the elderly and vulnerable persons of a representative designated in writing by the Principal Secretary*

2. The Ministry proposes that the Child Protection Practitioner's Course anchored at KSG to be among the courses considered for membership to the Professional body. This can fall under Section 6(e) and/or can further be entrenched in the accompanying regulations to the Act.

3. The criteria for membership should be widen to include social work related courses such as sociology, Counselling Psychology and those who have done some aspects of social work at post graduate levels. In this way, the Bill will cater for many undertaking social welfare services

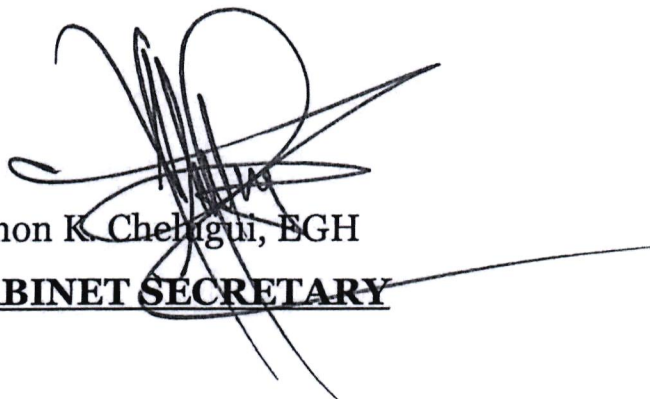
including children's officers who have been working in the field for many years but may not specifically have social work degree.

4. Amend Section 11. to read;

*The members of the Council shall be paid such fees, allowances and disbursement for expenses as per the relevant government circulars.*

5. Section 18 (c) and (d) talks about a person who shall be eligible to be registered as a social work professional and specifically state that such a person shall have successfully undergone a prescribed certificate, diploma, degree or research course etc. However, does not mention master's degree. Section 18 (c) and (d) should specify master's degree alongside with diploma and degree.

The Ministry once again reiterates its support for the Bill and notes that its enactment shall bring into being, a professional and regulatory body which the sector urgently need.



Simon K. Chelugui, EGH  
**CABINET SECRETARY**

**RESPONSE TO THE CONCERNS BY THE DEPARTMENTAL COMMITTEE ON  
LABOUR AND SOCIAL WELFARE,**

**AT MOMBASA ON FRIDAY THE 19<sup>TH</sup> MARCH 2021**

**ON**

**“THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL, 2020”**

**NATIONAL ASSEMBLY BILL No. 32 OF 2020**

**PROPOSED AMENDMENTS BY THE TECHNICAL COMMITTEE, KENYA  
MEDICAL SOCIAL WORKERS ASSOCIATION (KEMSWA) and ASWEK**

**Bill Sponsored by Hon. Joshua Kivinda Kimilu**

**In Attendance:-**

<u>Name</u>	<u>Tel. Nos</u>
1. Ms. Phyllis Muranguri	- 0724 416 841
2. Mr. Michael Waweru	- 0713 660 430
3. Prof. Gidraph Wairire	- 0722 851 435
4. Dr. Wilkins Ndege	- 0723 848 038
5. Dr. Urbanus M. Ndolo	- 0721 643 129
6. Mr. Timothy Okatta	- 0726 375 961
7. Mr. Tom Kangere	- 0705 700 331
8. Mrs. Mary Chege	- 0725 949 323

In Attendance: Hon. Joshua Kimilu - 0722101252

#	CLAUSE	PROPOSED AMENDMENT	JUSTIFICATION (REASON)
1.	PART I: Title (Pg, 849)	“THE SOCIAL WORK PROFESSIONALS, BILL 2020”	To capture the Core Professionals practice to be regulated by the bill Avoid an impression that the Bill would bring out another Social Work training Institution to compete with the existing ones
2	Pg. 851 Short title	Amendment Cite the Act as “Social Work Professionals’ Act 2020	The previous title was long

3.	Pg. 851 Preliminary section on Interpretation	Define Social Work Professional as “a person who, having successfully undergone a prescribed course of social work training in an approved training institution, is a holder of a certificate issued by that institution and is registered under this ACT”	It was missing
4.	Pg. 851 Interpretation of the Bill	Proposed to read “An act of parliament to make provision for the training, registration and licensing of social work professionals; to regulate their practice; to provide for establishment of social work professionals’ council of Kenya and for connected purposes.”	In line with the shortened Title
5	Pg. 851 Preliminary section on interpretation of terms	Delete Institute, rename practicing certificate to “practicing License”	The main role of the Council
6.	Pg. 851 “	Rename registration committee to licensing Board.	The core purpose for bill
7	Pg. 852 Part 2	3 (1) Proposal is to replace “the institute” with “the Council” everywhere it appears in subsequent sections.	In line with the shortened Title
8	5. (1) (g) (Pg. 853)	Delete 5(1) (g)	It is a duplication of 16 (b) which is a function of the examination Board.
9	Pg. 853 6 (1)	Replace “Council of the institute” with “composition of the Council”	It talks about composition of the Council
10	6 (1) (a) Chairperson	A Chairperson who shall be a Social Work Professional with a minimum of “10 Years of proven experience” in Social Work education and / or practice. Qualification: Minimum of a Postgraduate Degree in Social Work or at least Undergraduate Degree in Social Work and a Postgraduate Degree in related field	To encourage and attract persons with solid experience
11	Pg. 854 7 (2)(b) Executive Director of the Council (Not the Council)	Registrar and Chief Executive Officer (CEO) Minimum 10 years of proven experience in Social Work Profession Qualification: Minimum of a Postgraduate Degree in Social Work or at least an Undergraduate Degree in Social	To encourage and attract persons with solid experience

		Work and a Postgraduate Degree in related field	
12	1. (d) Pg. 854	(Add after the elderly) “principal secretary responsible for children, Social welfare / Social services	To capture the unique aspects and needs of children
13	Pg. 855 9	Delete “...on the advice of the Executive Director”	The advice of the Executive Director is not necessary.
14	Pg. 856 14	Add a subsection on exemptions to read “the provisions for section 14 shall not relieve the Council off the liability to pay for compensation or damages to any person for any injury to him/her, his/her property or any of his/her interests caused by this ACT or any other written law or by the failure, wholly, or partially, of any works.	Include an exemption to the protection from personal liability
15	Pg. 856 15 (2)	Delete a-d	<ul style="list-style-type: none"> <li>• This is a Board of the Council and the functions are under the functions of the Council.</li> </ul>
16	Pg. 857 16	Deleted (e)	<ul style="list-style-type: none"> <li>• It is a duplication of 16 (f)</li> </ul>
17	16 (i)	Delete 16 (i)	<ul style="list-style-type: none"> <li>• The Council shall be in charge of soliciting funds and management of funds</li> </ul>
18	857 17	Rename “Registration Committee” to “Licensing Board”	<ul style="list-style-type: none"> <li>• Its composition is independent from the Council</li> </ul>
19	17 (1) (c)	Amend to 2 persons nominated by Examination Board (1 from Generic social work and 1 from Medical Social Work)	<ul style="list-style-type: none"> <li>• To promote inclusivity and cater for uniqueness of Medical Social Work</li> </ul>
20	Pg. 857 17 (1)(d)	2 persons nominated by the Kenya National Examination Council (KNEC) and Kenya Medical Training Institute (KMTC) respectively.	<ul style="list-style-type: none"> <li>• To cater for Medical Social Work</li> </ul>

21	Pg. 858 18 (1)(c)	Replace “....prescribed by the institute-” with “..... prescribed by the Council”	<ul style="list-style-type: none"> <li>• Institute has been replaced by the Council</li> </ul>
22	18 (1)(c)	Delete “a” through “j”	<ul style="list-style-type: none"> <li>• Prescription of the courses is an administrative function of the Council</li> </ul>
23	Pg. 860 20 (b)	Remove principal shared holder	<ul style="list-style-type: none"> <li>• It will be difficult to hold persons personally accountable for professional misconduct if they had shareholders or directors in a company since a company is a separate entity from the owners</li> </ul>
24	Pg. 862 Part IV	Rename Practising Certificate to Practising Lincense	<ul style="list-style-type: none"> <li>• The Council will issue Practising Licenses not certificates</li> </ul>
25	28(1)	Include “... unless the person has been issued with a valid practicing license renewable every two (2) years.”	<ul style="list-style-type: none"> <li>• It was missing</li> </ul>
26	Pg. 863 29(g)	Delete “... favours of a sexual kind...”	<ul style="list-style-type: none"> <li>• Other benefits would suffice</li> </ul>
27	Pg. 866 37(2)	Replace Auditor General with Appointed Auditing firm	<ul style="list-style-type: none"> <li>• Because this is not a government Department</li> </ul>
28	PART IX: 42 (1) and (2) Pg 868	<p>Insert “Transitional Council shall have representatives from the following organizations”:-</p> <ol style="list-style-type: none"> <li>1) 2 members from Association of Social Work Education in Kenya (ASWEK)</li> <li>2) 2 Members from Kenya National Association of Social Workers (KNASW)</li> <li>3) 2 Members from Kenya Medical Social Workers Association (KEMSWA)</li> </ol> <p>NB: Chairperson will be elected from these three Organization</p>	<ul style="list-style-type: none"> <li>• Inclusivity and to avoid favouring one Association</li> </ul>

		<ul style="list-style-type: none"><li>4) A representative from Ministry of Labour</li><li>5) A representative from the Ministry of Health</li><li>6) A representative from Attorney General</li></ul>	
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Mr. Chemmenyo

Please deal.  
only

08/03/21



Adan Gumbicha  
pls facilitate  
consideration  
8/3/21

## KENYA MEDICAL SOCIAL WORKERS ASSOCIATION

P.O. Box 101040-00101, Nairobi. Tel: 0733 - 241614 | Email: kemswwa@gmail.com

KEMSWA/002/2021

1<sup>ST</sup> MARCH 2021.

CLERK OF THE NATIONAL ASSEMBLY

P.O BOX 41842-00100

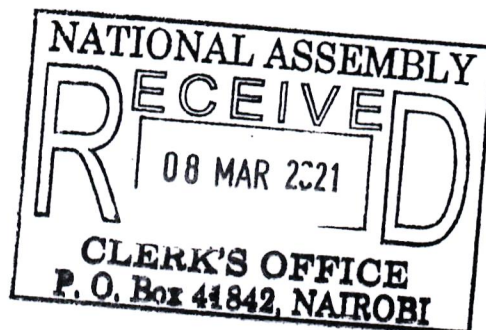
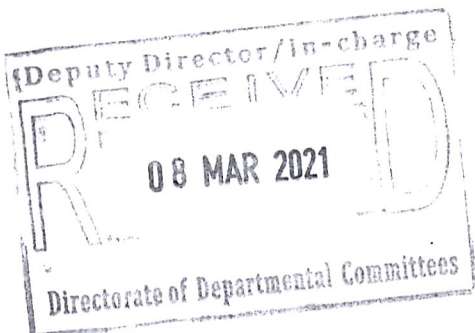
NAIROBI.

Dear Sir/Madam,

**RE: SUBMISSION OF MEMORANDUM ON THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL 2020 (NATIONAL ASSEMBLY BILL NO. 32 OF 2020)**

Kenya Medical Social Workers Association (KEMSWA) is a registered body serving the Professional interests of Medical Social Workers across the Republic of Kenya since 1989. KEMSWA is registered under the Society's Act (Registration Number 37002; in the year 1989). The training of Medical Social Workers and deployment of the same cross health facilities in Kenya has been and still continues to be done by the Ministry of Health since 1980. KEMSWA began the process of establishing a legal framework for the Training, Registration and Licencing of Medical Social Workers, to regulate their practice and to provide for the establishment of the Medical Social Workers Council of Kenya in 2018. Kenya Medical Social Workers (Training, Registration and Licencing) legislative proposal came out in 2019 sponsored by Hon. Vincent Kemosi MP for West Mugirango Constituency.

KEMSWA wishes to raise the following concerns pursuant to the Institute of Social Work Professionals Bill 2020 (National Assembly Bill no. 32 of 2020) sponsored by Hon. Joshua Kimilu.



1. Medical Social Workers are distinct in their training and professional practice. Currently Medical Social Workers train at Kenya Medical Training College(KMTC at Diploma Level and Jomo Kenya University of Agriculture and Technology(JKUAT) at Degree level both of which are science based and **NOT Art based**. Therefore Medical Social Workers are health care workers as recognized by Ministry of Health and the World health organization ( WHO)
2. Medical Social Workers directly work with patients in health care settings and their practice is over sighted by the Ministry of Health through Kenya Health Professional Oversight Authority (KHPOA) which is the regulator in matters of health.
3. The Scheme of Service for medical social workers is domiciled and administered within the ministry of health. Therefore Medical Social Workers are not part and parcel and should not be construed as being covered by the said bill.
4. The title of the aforementioned bill should expressly exclude Medical Social Workers. It should state as follows; An Act of parliament to provide for the establishment of the institute of social work and the social work professionals board; to provide for the examination, registration and regulation of the standards and practice of social work professionals and for connected purposes **excluding Medical Social Workers**.
5. The recognized Cabinet Secretary in part I- preliminary, article 2 is the Cabinet Secretary responsible for matters relating to Social Services and Protection following which Medical Social Workers are excluded since they serve under the Cabinet Secretary responsible for matters relating to health.
6. In November 2019 the Kenya Medical Workers Association did a justification through Hon. Kemosi to concerned Parliamentary committee explaining as to why Medical Social Work is a distinct health profession and cadre which is part and parcel of the larger health workforce.

Therefore that being the case the Kenya Medical Social workers Association objects to the inclusion of the Principal Secretary Health being a member of the Council of the Institute of Social Work Professionals. Article of 6 (I) (b) is in our view inappropriate and unjustified and should be completely expunged from the proposed NATIONAL ASSEMBLY BILL NO. 32 OF 2020.


This document roots for the uniqueness of Medical Social Work as a Health Profession and therefore can only be adequately covered by a specific law.


We plead then that Medical Social Workers proposed bill (Training, Registration and Licencing) be tabled in parliament and treated with due considerations as a stand-alone bill neither affected by nor affecting this Institute of social work professionals' gazetted bill.


It is also our pleading that your committee gives our association audience to be present and to be heard together with Hon. Vincent Kemosi MP. to help you understand our case in perspective.

Please find the attached copy of the presentation to the parliamentary Team on Medical Social Workers Justification dated November 12<sup>th</sup> 2019 to the effect that Medical Social Workers (Training, Registration and Licencing) Legislative proposal should be processed through **Parliamentary Health Committee and NOT Labour and Social Services Committee.**

Thank you.

Chairman ..... ARTHUR MUGO ..... Sign .....  ..... 03/2021

Secretary ..... SAHATI W. OUDIMU ..... Sign .....  ..... 03/2021





**KENYA NATIONAL ASSOCIATION OF SOCIAL WORKERS**

Nyayo Hse Kenyatta avenue, 9TH Flr, room 10  
P.O box 74223-00200, Nairobi, Tel: 0700047555, 0700046522  
Email: [knasw@knasw.org](mailto:knasw@knasw.org) , [info@knasw.org](mailto:info@knasw.org)  
Website: [www.knasw.org](http://www.knasw.org)

2/3/2021

CLERK OF THE NATIONAL ASSEMBLY

P.O BOX 41842 – 00100

NAIROBI

Email address: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

Dear Sir

RE: Submission Of Memoranda

*(In the matter of consideration by the national assembly institute of social work professionals bill (national assembly bill no. 32 of 2020))*

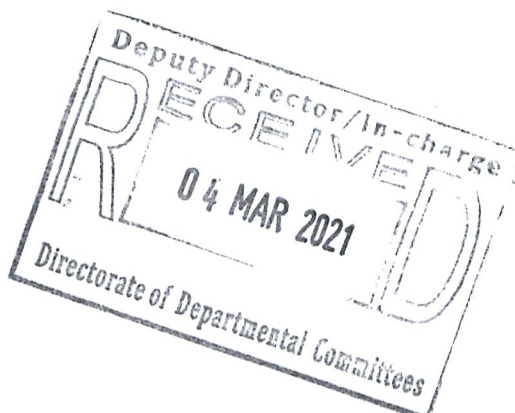
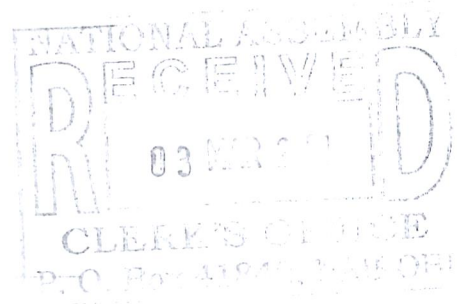
Attached please find our submission in relation to this matter.

We are also requesting for an oral presentation session at a time convenient to your committee

Yours sincerely

Alice Mbiyu

National vice chairperson



*Adan Gudiha DD call 001  
to facilitate consideration  
up to 4/3/21  
3/03/21*

## RECOMMENDATIONS

PART	CLAUSE	PROVINDING	PROPOSED AMENDMENT	RATIONALE
CITATION		General citation of the bill and what it is envisaged to cover	Delete "the institute of social work and" <ul style="list-style-type: none"> <li>• Insert "bill"</li> <li>• Delete "professionals board"</li> <li>• Insert "training"</li> <li>• Insert "syllabus"</li> <li>• Delete "professionals and for connected purposes"</li> </ul>	<ul style="list-style-type: none"> <li>• Term not encompassing, not accommodating, has a slanting connotation and sounds exclusive</li> <li>• To reflect those offering valuable social work related auxiliary services and may not be professionals</li> <li>• To give effect to the regulation of examinations and registrations in reference to the training and the syllabus pursuant to 18(c)</li> <li>• The bill has implications to service consumers and employers who are not necessarily professionals.</li> </ul>
PART 1	Preliminary clause 1	Short title	Delete "institute" delete "professionals"	Terms not inclusive in this reference
	Clause 2	Interpretations	Insert "Association" meaning Kenya National Association of Social Workers referred to under sec 42	This is the registered umbrella body of social workers and has existed in Kenya for over 50 years
		Interpretation	Delete "Register" insert "Register of members"	To differentiate between the proposed second register

		Interpretation	Insert "Register of schools, colleges, and universities" offering social work training pursuant to section 18(c)	Need to categorize, identify and also give option to the training institutions which will be affected by the bill
ART II	3(l)	Establishment of the institute	Delete "institute" replace with "Board"	Term more accommodating and reflects diversity of the stakeholders.
	6(e)	Council of the institute	Delete "five" insert "seven" insert "four will be nominated by the association and three by the training institutions"	The targeted stakeholders include social work practitioners, employers, service consumers on one hand and trainers/academia on the other hence the increase for proportional representation.
ART III	24(1)	Register of professionals	Delete "register" insert "Two Registers of members and Register of schools, colleges, universities pursuant to section 18(c)	To give effect to the purpose of this bill in reference to the opening citation.. <i>"Provide for training, examination, registration, regulation of syllabus and standards"</i>
ART IX	42 clause 1	Transition provision	Delete "before" insert "at the enactment"	to be in tandem and maintain consistency
	clause 2	Transition	Delete entire section. Insert Kenyan Nationals Association of Social Workers shall nominate a chairperson of the Board to act until the first elections are held under this Act.	To be consistent with the intent and purpose



The Ministry of Labour and  
Social Protection

# CHILD WELFARE SOCIETY OF KENYA

Child Welfare Building, Langata Road,  
P. O. Box 43982 – 00100 Nairobi  
Tel: 6003301 / 6006391 Fax: 6005854  
Mobile: 0726 298 921  
E-mail: cwsktoto@childwelfaremail.co.ke  
childwelfaresocietyofkenya@gmail.com  
info@cwsk.go.ke



Our Ref:.....CWSK/KNA/2021/001

Date: 1<sup>st</sup> August, 2021

Your Ref:.....

The Clerk  
Kenya National Assembly  
**NAIROBI**

Dear

**RE: SUBMISSIONS OF THE PROPOSED AMMENDMENTS TO THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL, 2020**

The above subject refers.

Please find attached herewith the proposed amendments of the Institute of Social Work Professionals Bill, 2020. We humbly request for an opportunity to present our submissions to the Committee on Labour and Social Welfare.

Thanking you for your consideration.

Yours faithfully,

**Irene Mureithi**  
**C E O/MANAGING TRUSTEE**

**PROPOSED AMENDMENTS TO THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL, 2020 AND THE JUSTIFICATION**

**Preamble-**

In Kenya, formal social work education was introduced at diploma level at the Kenya-Israel School of Social Work, and training at degree level was started in 1976 at the University of Nairobi (Wairire, 2014). Other universities offering Social Work Degree in Kenya are;

- (1) The Moi University, Eldoret
- (2) Catholic University of Eastern Africa
- (3) Maasai Mara University
- (4) Masinde Muliro University
- (5) South Eastern Kenya University- Kitui

No	Proposed Amendments	Justification
1.	<p>That the Bill be amended by inserting: -</p> <ul style="list-style-type: none"> <li>a) Second Schedule- THE INSTITUTE; and</li> <li>b) Third Schedule- THE COUNCIL immediately after the First Schedule in the ARRANGEMENT OF CLAUSES</li> </ul>	<ul style="list-style-type: none"> <li>❖ To provide for election of the chairperson and members of the Council and conduct of business of the council including holding of annual general meetings of the institute.</li> </ul>
2.	<p>That the Bill be amended by deleting the short title and substituting with the title "Social Workers Professionals Act, 2020"</p>	<ul style="list-style-type: none"> <li>❖ The main object of this bill is to regulate social work profession in Kenya therefore, the short title</li> </ul>

		<p>should reflect the social work profession rather than the Institute.</p> <ul style="list-style-type: none"> <li>❖ The Best practice from other professions is to focus on the profession rather than the institute. Hence the need to amend to reflect the best practices.</li> </ul>
<p><b>3.</b></p>	<p>That Clause 2 of the Bill be amended by inserting the following:          "social worker" means a person registered pursuant to this Act to practise social work in Kenya.</p>	<ul style="list-style-type: none"> <li>❖ The amendment is to provide for interpretation of the term "Social Worker" in the bill.</li> </ul>
<p><b>4.</b></p>	<p>That the bill be amended by deleting clause 4 and inserting the following new Clause:          4. "A person who is registered under this Act shall be a member of the Institute"</p>	<ul style="list-style-type: none"> <li>❖ The bill provides for various categories of membership which include fellows, associates, registered members and other persons whom the council may consider qualified to be registered as members of the Institute this therefore, implies that persons who are not social workers by training (B.A Social Work Degree Holders) can be</li> </ul>

		<p>registered as members of the Institute thus defeating the purpose of regulating social work profession in the country. Therefore, the need to amend the bill to provide for only qualified persons (B.A Social Work Degree Holders) be members of the Institute.</p>
<p><b>5.</b></p>	<p>That the Bill be amended by deleting Clause 5 and substituting therefore with the following new Clause 5 as follows:-</p> <p><b>Functions of the Council</b></p> <p>5. (1) The Council in order to-</p> <ol style="list-style-type: none"> <li>a. Serve and protect the public interest;</li> <li>b. Preserve the integrity of the social-work profession; and</li> <li>c. Maintain public confidence in the ability of the social-work profession to regulate itself,</li> </ol> <p>The Council shall-</p> <ol style="list-style-type: none"> <li>d. Regulate the practice of social work through- <ol style="list-style-type: none"> <li>a) The registration, licensing, professional conduct and other processes set out in this Act and the regulations,</li> <li>b) The approval and promotion of a code of ethics, and</li> <li>c) The development, approval and promotion of standards of practice, entry level competencies and continuing competency requirements;</li> </ol> </li> </ol>	<ul style="list-style-type: none"> <li>❖ The amendment to Clause 5 ensures that the functions of the Institute are place with the appropriate body which is the Council. The council is the governing body of the Institute; therefore, the right body to exercise the said functions.</li> <li>❖ The amendment also provides clarity on the functions of the Council in regulating the profession by ensuring that the integrity of the profession is preserved through code of ethics, standards</li> </ul>

<p>e. Subject to paragraph (d), and in the public interest, advance and promote the practice of social work;</p> <p>f. Encourage members to participate in affairs promoting the practice of social work, in the best interest of the public;</p> <p>g. Advocate for the development, enhancement and promotion of policies to improve social conditions and promote social justice;</p> <p>h. Prescribe the initial and continuing educational, proficiency and other qualifications for registration;</p> <p>i. Examine applicants and judge entitlement to registration;</p> <p>j. Provide investigation of complaints and for the discipline of social workers in accordance with this Act and the regulations;</p> <p>k. Enter into agreements or other arrangements with the governing bodies that regulate the practice of social work in other jurisdictions to provide for the inter jurisdictional practice of social workers and the continuation of control and regulation over the practice of social work;</p> <p>l. plan, arrange, co-ordinate and oversee continuing professional training and development and facilitate internship of trainee social workers;</p> <p>m. collaborate with training institutions, professional associations, professional organizations and other relevant bodies in matters relating to training and professional development of social workers;</p> <p>n. determine the fees to be charged by professional social workers and firms for professional services rendered from time to time;</p> <p>o. establish a system of professional supervision of social workers and the appointment of supervisors for that purpose;</p>	<p>of practice, examination among others.</p> <p>❖ The amendment provides a comprehensive and detailed functions of the Council.</p>
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	<p>p. upon request, facilitate arbitration or mediation in any disputes between a licensed Social Worker and a client;</p> <p>q. represent, protect and assist social workers in respect of conditions of practice and otherwise;</p> <p>r. promote research in social work practice and related matters;</p> <p>s. publish books, periodicals, journals and articles on social work;</p> <p>t. provide a medium for communication and exchange of information, knowledge and ethical standards for those persons engaged in the field of social work;</p> <p>u. advise the Examinations Board on matters relating to examination standards and policies;</p> <p>v. promote inter-professional collaboration with other professional bodies;</p> <p>w. prescribe the fees and other charges payable with respect to examinations by the Examination Board;</p> <p>x. issue certificates to candidates who have satisfied examination requirements; and</p> <p>y. carry out any other functions prescribed for it under any of the provisions of this Act or under any written law.</p> <p>(2) The Council may appoint such committees or panels as may be necessary to perform its functions under this Act</p> <p>(3) the Council may delegate the powers and duties of the Council, as specified in the delegation, to a committee, panel, or a member of the Council</p>
	<ul style="list-style-type: none"> <li>❖ Sub Clause (2) is a new provision which provide for the Council to appoint committees or panels for performance of its functions.</li> <li>• Sub Clause (3) is a new provision which provides</li> </ul>

		<p>for delegation of the powers and duties of the Council.</p>
<p><b>6.</b></p>	<p>That the Bill be amended by deleting Clause 6 and substituting therefore with the following new Clause 6 as follows:-</p> <p>6(1) The management of the Institute shall vest in a Council comprising-</p> <ul style="list-style-type: none"> <li>a) a chairman elected in the manner provided in paragraph 1 of the Second Schedule;</li> <li>b) the Principal Secretary of the Ministry responsible for matters relating to social welfare or a representative designated in writing by the Principal Secretary;</li> <li>c) one person nominated to represent the Commission for university Education;</li> <li>d) Six other members elected in the manner provided in the Third Schedule whom shall be social workers; and</li> <li>e) the Executive Director, as an <i>ex officio</i>.</li> </ul> <p>(2) "the Chairman and or a member elected under sub section (1) (a), (c) and (d) shall hold office for a period of three years and may be eligible for re-election for a further and final term of three years.</p> <p>3) A member seeking election as chairperson or a member shall be a person who—</p> <ul style="list-style-type: none"> <li>a. Is a Kenyan;</li> <li>b. holds at least a Bachelor's Degree in Social Work from a recognized university in Kenya;</li> <li>c. has at least 10 years of experience in social work practice;</li> </ul>	<ul style="list-style-type: none"> <li>• The amendment to Clause 6 is to ensure that the chairperson and the members under paragraph (d) are registered social workers and elected by the members of the institute as per the Second and Third Schedule. The amendment also provides for a representative of Commission for University Education which is a key stakeholder in development and accreditation of social work programs at the universities.</li> </ul>

	<p>d. meets the requirements of Chapter Six of the Constitution;</p> <p>e. is a registered member of the Institute; and</p> <p>f. has not been disqualified under the provisions of the Second Schedule.</p>	<ul style="list-style-type: none"> <li>Sub clause (2) and (3) provide for term of office for the chairperson and members of the Institute and their qualifications.</li> </ul>
<p>7.</p>	<p>That Clause 15 of the bill be amended :-</p> <ol style="list-style-type: none"> <li>by deleting sub clause (2)</li> <li>in sub clause (3) by deleting paragraph (a) and inserting a new paragraph (a) as follows- (a) "four social work professionals appointed by the Council who represent the diversity of various fields of social work practice and who reflect the gender, racial and ethnic composition of Kenya, one of whom is teaching at University offering social work,</li> <li>By inserting a new paragraph (e) to read as follows- (e) "the Council shall appoint a chairperson of the Board among the members under sub section (3) (a)".</li> <li>by inserting a new sub clause (5) as follows- (5) "the Board shall regulate its own meetings"</li> </ol>	<ul style="list-style-type: none"> <li>The amendment under sub clause (2) removes the body corporate status of the examination Board. The reason for this amendment is that examination is a function of the Council and therefore cannot be an independent function from other functions of the Council. Also, it is best practice that professional examinations</li> </ul>

		<ul style="list-style-type: none"><li>• are conducted in accordance with the standards and regulations by the governing body.</li><li>• The amendment under Sub clause (3) paragraph (a) provides clarity of persons to be appointed as members of the examination Board.</li><li>• The new paragraph (e) provides for appointment of the chairperson of the board of examination.</li><li>• The new Sub Clause (5) provides for how the board shall conduct its affairs</li></ul>
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<p><b>8.</b></p>	<p>That the Bill is amended by-</p> <p>a. deleting Clause 16 and substituting with a new Clause 16 as follows- 16. "the Board shall examine persons seeking to be registered as social workers."</p> <p>b. Inserting a new Clause 16A immediately after Clause 16 as follows- <b>Remuneration of the Examination Board Members</b> 16A. the members of the Examination Board shall be paid such, fees, allowances and disbursements for expenses as may be determined by the Council.</p>	<ul style="list-style-type: none"> <li>• The Examination Board only function is to conduct examination on behalf of the council and therefore the amendment to Clause 16 is meant to reflect the same. The functions under Clause 16 are functions by the Council being the governing body of the Institute. The said functions have been restructured and moved to Clause 5 as functions of the Council.</li> <li>• Clause 16A is a new provision to provide for remuneration of the members of the examination board.</li> </ul>
<p><b>9.</b></p>	<p>That the Bill is amended by deleting Clause 17</p>	<ul style="list-style-type: none"> <li>• The Council is responsible for registration of members of the Institute and can carry out the function of registration</li> </ul>

		<p>through delegation of the function to a committee of the Council in accordance with Clause 5 (2) and (3) hence the amendment by deleting Clause 17. The Council can therefore constitute a Registration Committee and assign it functions as it deem fit.</p>
<p><b>10.</b></p>	<p>That the Bill is amended by deleting Clause 18 and substituting with a new Clause 18 as follows-</p> <p>18 Subject to the provisions of this Act, a person shall be eligible to be registered as a social work professional if such a person-</p> <ol style="list-style-type: none"> <li>a. has obtained a bachelor's degree in social work from a recognized university in Kenya;</li> <li>b. has, subsequent to obtaining the degree, completed at least two years of experience under a registered social worker that in the opinion of the Council, demonstrates competence in the field of social work,</li> <li>c. has passed the examinations required by the Council,</li> <li>d. is of good conduct and</li> <li>e. has paid the prescribed fees.</li> </ol>	<ul style="list-style-type: none"> <li>• The amendment is to ensure that only persons who are holders of a B.A Social work degree are registered as social work professionals. This is the practices by most professions within Kenya and other jurisdictions i.e engineers, lawyers among others.</li> </ul>
<p><b>11.</b></p>	<p>That Clause 19 of the Bill is amended by inserting new sub clause (2) and (3) as follows-</p>	<ul style="list-style-type: none"> <li>• The amendment is to provide for the process of communication by the Council to an applicant</li> </ul>

	<p>(2) The Council shall inform the applicant, in writing, of its refusal to register the applicant.</p> <p>(3) A person whose application for registration has been rejected may appeal to the Council.</p>	<p>in case the application is not approved for registration.</p>
<b>12.</b>	<p>That Clause 20 of the Bill is amended by deleting paragraph (b) and substituting thereof with the following new paragraph-</p> <p>(b) "the firm has shareholders who are registered as social work professional and have valid practicing certificates".</p>	<ul style="list-style-type: none"> <li>• The amendment is to ensure that only registered and licensed social workers operate social work firm. This is the case in other professions i.e law firms.</li> </ul>
<b>13.</b>	<p>That Clause 21 of the Bill is amended by deleting the expression "Registration Committee" and replace with "Council"</p>	<ul style="list-style-type: none"> <li>• The amendment aligns the Clause with the functions of the Council.</li> </ul>
<b>14.</b>	<p>That Clause 22 is amended by deleting the expression "Registration Committee" and replace with "Council"</p>	<ul style="list-style-type: none"> <li>• The amendment aligns the Clause with the functions of the Council.</li> </ul>
<b>15.</b>	<p>That Clause 23 is amended by deleting the expression "Registration Committee" and substituting with "Council"</p>	<ul style="list-style-type: none"> <li>• The amendment aligns the Clause with the functions of the Council.</li> </ul>
<b>16.</b>	<p>That Clause 28 is amended by deleting the expression "Registration Committee" and substituting with "Council"</p>	<ul style="list-style-type: none"> <li>• The amendment aligns the Clause with the functions of the Council.</li> </ul>
<b>17.</b>	<p>That Clause 41 (2) of the Bill is amended by deleting paragraph (a) and substituting thereof with the following new paragraph-</p>	<ul style="list-style-type: none"> <li>• The amendment to paragraph (a) is meant to provide clarity on</li> </ul>

	<p>(a) the courses of study to be pursued by candidates in order to satisfy the professional requirements of registration;  (b) the proofs to be furnished as to education, good character and experience;  (c) the subjects for examination of candidates for registration as social workers;  (d) duties and functions of examiners;  (e) matters relating to applications, complaints or discipline;</p> <p>Amend by renumbering from paragraph (b) to (g)</p>	<p>areas which the Council can regulate on i.e courses of study to be pursued by candidates who seek to be registered as social workers professionals. Further the Council can not regulate academic programs as provided for under paragraph (a) as the same is a function of the Commission for University Education hence the amendment.</p> <ul style="list-style-type: none"> <li>• The Council is also mandated under its functions to advise the Examination Board on professional courses hence the need to provide for development of regulations which address this requirement i.e regulations on courses of study, duties and functions of examiners, subjects for examination among others.</li> </ul>
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<p><b>18.</b> That Clause 42 be amended by deleting Sub Clause (1) and (2) and substituting with the following new Sub clause (1), (2) and (3):-</p> <p>(1) The Cabinet Secretary for the time being responsible for matters relating to social services and protection shall at the commencement of this Act appoint an interim Council in accordance with Section 6.</p> <p>(2) The members appointed under subsection (1) shall remain in office until the first election of the members of the Council under Section 6 are conducted.</p> <p>(3) Notwithstanding the provisions under Section 18 of this Act: -</p> <p>a) Any person immediately before the commencement of this Act was engaged in social work practice shall within two years after the commencement of this Act apply for registration under this Act.</p> <p>b) After the expiry of twenty-four months after the commencement of the Act no person may carry on business or hold himself/herself out as being a social worker except in compliance with this Act.</p>	<ul style="list-style-type: none"> <li>• The objective of this Act is to promote the Social Work Profession in Kenya and thus the need to guide the Cabinet Secretary in appointment of the interim Council which should reflect the spirit under Clause 6 and ensure that the interim Council is inclusive as envisaged under this Act.</li> <li>• It is limiting to have the National Executive Council of the Kenya National Association of Social Workers as an Interim Council for the Institute under this Act. The National Executive Council of the Kenya National Association of Social Workers are members of the Council of the Institute among other members.</li> <li>• The new sub clause (2) provides for transitional</li> </ul>
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		<p>registration of Social Workers under this Act.</p> <ul style="list-style-type: none"> <li>• academic requirements for curriculum development is a function for Commission of University Education</li> <li>• The council is only supposed to provide for professional requirement for the development of curriculum and thus a function of the Council.</li> </ul>
<p><b>19.</b></p>	<p>That Clause 42 (4) be deleted</p>	
<p><b>20.</b></p>	<p>That the Bill is amended by inserting the Second and Third Schedule immediately after the First Schedule as follows: -</p> <p style="text-align: center;"><b>SECOND SCHEDULE</b></p> <p style="text-align: center;">(Sections 3,6.)</p> <p style="text-align: center;">THE INSTITUTE Chairman of the Institute</p> <p>1. (1) The Chairman shall be elected during the annual general meeting of the Institute.</p> <p>(2) Unless he earlier vacates the office, a person elected to the office of chairman shall hold the office until another Chairman is elected.</p> <p>(3) A person elected as chairman in subsection (1) shall hold office for a non-renewable term of two years.</p>	<ul style="list-style-type: none"> <li>• The new Schedules provide for process of election of the chairperson and members of the Council and conduct of business of the council including holding of annual general meetings of the institute.</li> </ul>

(4) A person who holds the office of Chairman may resign the office by writing under his hand delivered to the Council.

**Meetings of the Institute**

2. Subject to paragraph 3 of this Schedule, an annual general meeting of the Institute shall be held not later than six months after the end of each year.
3. A special general meeting of the Institute—
  - (a) may be held at any time; and
  - (b) be held on a written request made to the Council and signed by not less than one hundred members of the Institute.
4. (1) A meeting of the Institute shall be convened by the Council by giving to every member of the Institute a written notice—
  - (a) stating the place and time of the meeting; and
  - (b) indicating the business which it is proposed to transact at the meeting, which shall include, among other matters, the presentation of the following—
    - (i) a report by the Council covering the past year;

	<p>(ii) financial statements and the auditor's report thereon;</p> <p>(iii) election of the Chairman and Council members; and</p> <p>(iv) the appointment of the auditor.</p> <p>(2) Notice of a meeting shall be given not less than fourteen days before the date on which it is to be held to each member of the Institute by posting the notice to the address of the member last known to the Institute, or by handing the notice to the member in person.</p> <p>(3) The validity of any proceedings of the Institute shall not be affected by any failure to comply with the requirement of sub-paragraph (2) of this paragraph unless it is proved that the failure to comply in relation to any member was a deliberate failure.</p> <p>5. (1) The Chairman shall preside at all meetings of the Institute at which he is present.</p>	
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(2) At a meeting of the Institute at which the Chairman is not present, the Vice-Chairman shall preside.

(3) At a meeting of the Institute at which neither the Chairman nor the Vice-Chairman are present, the members of the Institute present shall elect one of their members to preside.

6. (1) Subject to this paragraph, the quorum at a meeting of the Institute shall be one hundred members.

(2) Where a general meeting of the Institute is convened—

(a) otherwise than pursuant to paragraph 4(b) of this Schedule, and a quorum is not present when the meeting proceeds to business, the meeting shall stand adjourned until the same day on the following week, at the same time and place, and if a quorum is not present at or within fifteen minutes after that time, the members present shall constitute a quorum; or

(b) pursuant to paragraph 4(b) of this Schedule, and a quorum is not present when the meeting proceeds to business the meeting shall be dissolved.

7. (1) No business shall be transacted at a meeting of the Institute unless—

(a) the business is indicated in the notice of the meeting as business which it is proposed to transact; or

(b) in the case of business not so indicated, the meeting decides to transact the business and the person presiding at the meeting agrees to the transaction of the business.

	<p>(2) Minutes of the proceedings at meetings of the Institute shall be kept in such a manner as the Chairman or in his absence the person presiding at a particular meeting, directs.</p> <p>8. The person presiding at a meeting of the Institute may adjourn the meeting from time to time and from place to place, with the consent of the meeting.</p> <p>9. The person presiding at a meeting of the Institute may in his discretion limit the number of persons permitted to speak in favour of or against any motion and the time any such person may so speak.</p> <p>10. (1) Questions arising at a meeting shall be determined by a majority of the members of the Institute voting on the question.</p> <p>(2) Voting on any question shall be by a show of hands or such other procedure as may be prescribed in by-laws or regulations published under the provisions of this Act.</p> <p>(3) Where a ballot is held, voting may be either done personally or by written proxy.</p> <p>(4) An instrument appointing a proxy shall be in writing and shall be deposited with the Secretary to the Council not less than forty-eight hours before the meeting of the Institute at which it is to be used.</p> <p>(5) A proxy to be used in any ballot at any meeting may be used at the meeting or, if the meeting is adjourned, in any ballot when the meeting is resumed after the adjournment but the holding of a proxy shall not be counted towards the quorum at any stage of any meeting.</p>	
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- (6) The person presiding at a meeting of the Institute has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.
- (7) A declaration by the person presiding at a meeting of the Institute that a resolution has or has not been carried and an entry to that effect in the minutes of the meeting is evidence of that fact.

SECOND SCHEDULE [Sections 6 (2), 11.]

THE COUNCIL

Members of the Council

- 1) Each of the four members of the Council (one of whom shall be the Vice-Chairman) referred to in Section 6 (g) of this Act shall be elected at an annual general meeting of the Institute.
- (2) Subject to paragraph 2 of this Schedule, a member of the Council—
  - (a) elected pursuant to sub-paragraph (1);
  - (b) appointed pursuant to Section 6 (b) and (c) of this Act; or
  - (c) co-opted pursuant to sub-paragraph (4), shall hold office for the prescribed period, unless he earlier ceases to hold office.
- (3) A member of the Institute shall be disqualified from contesting any position on the Council if within the preceding three years, such member—
  - (a) has been found guilty of an act of professional misconduct under this Act, which in the opinion of the Council renders him unfit to hold the office;

	<p>(b) has been convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine;</p> <p>(c) has been convicted of an offence involving corruption, dishonesty or abuse of office; or</p> <p>(d) has been adjudged bankrupt or has entered into a composition or scheme of arrangement with his creditors.</p> <p>(4) Subject to sub-paragraph (5), where a member of the Council (including a member co-opted pursuant to this sub-paragraph) ceases to hold office before the expiration of the prescribed period or otherwise than under the provisions of paragraph 2 of this Schedule (where applicable), the Council may co-opt a person to hold that office.</p> <p>(5) Sub-paragraph (4) does not apply to the members of the Council appointed pursuant to Section 6 (b) and (c) of this Act.</p> <p>(6) In this sub-paragraph, the “<b>prescribed period</b>” means—</p> <p>(a) in relation to a member referred to in sub-paragraph (2)(a), the period beginning with his election and ending at the commencement of the day on which the third annual general meeting after his election is to be held;</p> <p>(b) in relation to a member referred to in sub-paragraph (2)(b), the period of three years next following his appointment; or</p>	
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(c) in relation to a member referred to in sub-paragraph (2)(c), the period beginning with his being co-opted and ending at the commencement of the day on which the first annual general meeting after his being co-opted is to be held.

Of the six members of the Council (including the Vice-Chairman) first elected by the Institute after the commencement of this Act—

(a) two (identified by agreement of the members of the Council or by lot) shall cease to hold office at the commencement of the day on which the second annual general meeting of the Institute is to be held, save in the case of any such who earlier ceases to hold office;

(b) two (so identified) shall cease to hold office at the commencement of the day on which the third annual general meeting of the Institute is to be held, save in the case of any such member who earlier ceases to hold office; and

(c) the remaining two members shall cease to hold office at the commencement of the day on which the fourth annual general meeting of the Institute is to be held, save in the case of any such member who earlier ceases to hold office.

3. Notwithstanding paragraph 2, the office of a member of the Council shall become vacant if such member—

(a) resigns the office by writing under his hand delivered—  
(i) in the case of the members appointed pursuant to section 6(b), (b) and (c) to the Minister; or

(ii) in the case of any other member, to the Council;  
(b) has the appointment revoked by the Minister in the case of the members appointed pursuant to Section 6 (b) and (c);

	<p>(c) ceases to hold the office in the case of the members appointed pursuant to Section 6 (b) and (c);</p> <p>(d) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors; or</p> <p>(e) is absent without the permission of the Council from three or more consecutive ordinary meetings of the Council; or</p> <p>(f) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine; or</p> <p>(g) is found guilty of an act of professional misconduct under this Act, which in the opinion of the Council renders him unsuitable to continue to hold office; or</p> <p>h) becomes for any reason, including infirmity of body or mind, incompetent or incapable of performing the functions of his office.</p> <p>4. (1) Subject to paragraph 1(4) of this Schedule, where a member of the Council ceases to hold office, another member shall be elected to fill the vacancy at the annual general meeting of the Institute next following, or shall be appointed as provided under Section 11 (b), (c), (d) or (e) of this Act, as the case may be.</p> <p>(2) A member of the Council who ceases to hold office other than under paragraph 3(b), (c), (d), (e) or (f) is eligible for re-election or re-appointment.</p>	<p>Vice-Chairman of the Council</p>
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5. (1) There shall be a Vice-Chairman of the Council who shall be elected by the Council from amongst the members of the Council elected under Section 6 (f) of this Act.

(2) The Vice-Chairman shall hold office for the period of one year immediately following his election to the office or, if he ceases to hold office as a member of the Council before then, until he so ceases to hold office.

(3) Subject to paragraph 2 of the Second Schedule of this Act, the Vice-Chairman may exercise and perform the functions of the Chairman if the Chairman is unable to exercise and perform those functions.

Proceedings

6. The quorum at meetings, of the Council and the arrangements relating to meetings of the Council shall be such as the Council may determine.

7. The person presiding at a meeting of the Council has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.

8. Minutes of the proceedings of the Council shall be kept in such manner as the Council directs, and, on the written request of the Cabinet, shall be made available to him or any person nominated by him.

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## MEMORANDUM

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PURSUANT TO ARTICLE 118 (1)(B) OF THE CONSTITUTION OF KENYA  
AND PURSUANT TO STANDING ORDER 127(3) OF THE NATIONAL STANDING  
ORDERS

THE SENATE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

REGARDING INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL (listed as  
National Assembly Bill No.32 of 2020)

RECOMMENDATIONS BY UNITED NATIONS CHILDREN'S FUND (UNICEF),  
KENYA OFFICE

TO:

THE CLERK OF THE SENATE/SECRETARY PARLIAMENTARY SERVICE COMMISSION  
FIRST FLOOR  
MAIN PARLIAMENT BUILDINGS  
P.O BOX 41842 – 00100  
NAIROBI – KENYA

FROM:

DEPUTY REPRESENTATIVE  
UNICEF KENYA  
UNITED NATIONS COMPLEX  
UNITED NATIONS AVENUE, BLOCK Q  
P.O BOX 44145 00100  
NAIROBI-KENYA

Dear Sir,

**RE: Invitation for Public Participation and Submission of Memoranda (i) Institute of Social Work Professionals Bill (National Assembly Bill No. 32 of 2020)**

UNICEF takes note of the National Assembly Bill on the Institute of Social Work Professionals (No.32 of 2020) and welcomes the invitation for public participation and submission of memoranda to the public hearing.

UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights, help meet their basic needs and expand their opportunities to reach their full potential. Our work is guided by the Convention on the Rights of the Child ratified by Kenya in (year). We strive to promote the realization of children's rights as enduring ethical principles and international standards of behaviour towards children.

In this regard, strengthening social service workforce is one of UNICEF's global programme priorities. Strong and well-resourced social service workforce is indeed essential in achieving many of the Sustainable Development Goals (SDGs). We also recognize that the child protection workforce is the backbone of any child protection system and plays a central role in supporting children and families by alleviating poverty, identifying and managing risks and facilitating access to essential services to enhance their protection and well-being. Given its importance, UNICEF (together with the Global Social Service Workforce Alliance) has developed 'Guidelines to Strengthen the Social Service Workforce for Child Protection' (2019). The Guidelines are informed by evidence of what works and lessons learned in the field.

<https://www.unicef.org/sites/default/files/2019-05/Guidelines-to-strengthen-social-service-for-child-protection-2019.pdf>

The Guidelines define social service workforce as *'paid and unpaid, governmental and non-governmental, professionals and para-professionals, working to ensure the healthy development and well-being of children and families. The social service workforce focuses on preventative, responsive and promotive programmes that support families and children in communities by alleviating poverty, reducing discrimination, facilitating access to services, promoting social justice and preventing and responding to violence, abuse, exploitation, neglect and family separation.'*

This definition recognizes that a variety of professional and para-professional workers serves the social service system. Indeed, as in many other professions, the social service workforce comprises many different cadres of people with various titles, roles and functions with a common goal – to care, support, promote and empower vulnerable people.

Kenya has a significant child protection workforce that supports vulnerable children in need of care and protection in communities, institutions and humanitarian situations, who prevent and

respond to violence against children through case management and psychosocial support services and links children and families with essential services. It is the view of UNICEF that this cadre of professionals constitutes an essential part of the social work workforce in Kenya and should be reflected in the Bill.

UNICEF is working closely with the Department of Children's Services (DCS), the Ministry of Labour and Social Protection (MoLSP) to strengthen the social service workforce within the child protection sector. DCS, in partnership with UNICEF, has developed a 'Framework for strengthening child protection workforce' which is based on the above-mentioned Global Guidelines focusing on (i) planning, (ii) developing and (iii) supporting the workforce. As part of the government's effort to professionalize the child protection workforce a 10-day standardized in-service training for professional child protection workforce has been developed with UNICEF's support and has been institutionalized at the Kenya School of Government. To date, more than 80 children's officers have been trained as master trainers and are ready to carry out the training in partnership with the Kenya School of Government. DCS has, together with UNICEF also developed a standardized in-service training course for a para-professional child protection workforce in order to equip them with necessary knowledge and skills and certify them accordingly.

In this respect, UNICEF Kenya welcomes the intention of the Bill to professionalize social work in Kenya and wishes to bring forward the following considerations:

- i) While the Bill defines social work, we suggest also defining 'social work professionals' or preferable the social service workforce the regulation of which is the objective of this Bill. UNICEF recommends the use of the above definition on social service workforce with possible adaptations to the Kenyan context. Clearly defining the workforce is an essential element of planning for social service workforce.
- ii) While many Children's Officers have qualifications that make them eligible to be registered as a social work professional under the Bill, some of the members of the child protection workforce do not meet these requirements but have performed a social work function during several years. We recommend that the Bill outline measures for inclusion of these experienced cadres based on set criteria. This could be for example:
  - a. Based on a set minimum years served as a Children Officer e.g. 5-7 years
  - b. Completion of stipulated bridge training such as the 10-day standardized training for professional child protection workforce of the Kenya School of Government which could be reflected under the Section 18 on qualifications for registration possibly in the section (e) on "other qualifications as the Council may prescribe".
- iii) In line with the definition of social service workforce as encompassing 'paid and unpaid'; 'professional and paraprofessional' we would welcome a modality of registering para-professional workforce such as Child Protection Volunteers based on certain criteria.

They could be registered as 'affiliated workforces'. The Child Protection volunteer scheme is well established under the Ministry of Labour and Social Protection and a modality for registration would gradually and increasingly professionalize these cadres and allow for more systematic and continued in-service trainings. At the same time they would also be subjected to the oversight and disciplinary measures outlined in the Bill.

- iv) Section 4 (2) (c) requires further articulation on who would be eligible to be 'associate members', as the Bill currently only stipulates that a person who does not meet requirements under section 22. While Section 22 does not address this topic and we presume it should read Section 18. Section 18 can be further enhanced to include 'associate member' eligibility. One option to consider is **the inclusion of children's officers in services with minimum years of experience (from 5 to 7 years) who have completed the 10-day standardized in-service training for professional child protection workforce at the Kenya School of Government in this category.**
- v) Section 5. We would like to recommend inserting 'provide continuing social work education courses' especially in view of Section 16 (i) which states the examination board remits 30% of its proceeds to the Institute for this purpose (Section 16(i).)
- vi) We recommend Section 6 (d) to include '**children**' and '**persons with disabilities**' after the elderly and before vulnerable person so it will read as 'the Principal Secretary of the Ministry for the time being responsible for matters relating to social welfare, the elderly, children, persons with disability and vulnerable persons or a representative designated in writing by the Principal Secretary.
- vii) We would like to recommend replacing 'elected by social work professionals' with 'elected by Institute members' to make it more specific in Section 6 (e) as some social work professionals may not join the Institute, in which case they should not be on the Council.
- viii) We recommend not to include the Section 10 on delegation by the Council to 'any committee or to any member, officer, employee or agent of the Council' even by resolution as it is too serious a matter to leave to any ad hoc committee or individual.
- ix) In section 14 we recommend that the Bill to mention that if reckless neglect of proper guidelines, standards or professional judgment in executing such functions is shown, these individuals should be held personally responsible.
- x) Section 16 (e) – We recommend 'certificate' to be articulated as 'exam completion certificates' to avoid any confusion with practicing certificates mentioned.
- xi) Section 17 (b) (c) (d) - We recommend that the Registration Committee members in

principle not include people who are not members of the Institute as the duties related to registration can and should be fulfilled by Institute members and the Registration Committee is an appendage of the Institute.

- xii) Section 18 (c) and (d) talks about a person who shall be eligible to be registered as a social work professional to have successfully undergone a prescribed certificate, diploma, degree or research course etc; however, it can have different meanings. We recommend to articulate further on whether the applicant has to have a certificate, diploma, degree or research course **in one of those, or all, or some.**
- xiii) Section 24 talks about a Register. We recommend the Section to articulate that the register, along with the list of licensed practitioners to become be made public or public information, whether online or via phone inquiries. This will serve protection of the public and its vulnerable population which is one of the primary reasons for professional regulation.
- xiv) Section 28 talks about 'practicing certificate.' We recommend for 'Practice Certificate' to be changed to 'practice license' as there are several 'certificates' in the Bill (exam certificate, registration certificate). The section should further articulate whether 'practice certificates' should be renewed either every other year, upon proof of continuing education requirements. These requirements need to be spelled out whether in the Bill or in rules or regulations.
- xv) Section 29 talks about professional misconduct. In Section 29 (a), we recommend replacing 'his or her employer or client' with 'set of regulations' Neither employers or clients stipulate procedures for the social workers.
- xvi) In Section 29 (b), we recommend articulating 'social work principles' if not listed in any other part of the Bill as otherwise it will be arbitrary.
- xvii) In Section 29 (c), we recommend articulating what constitutes 'corrupt' practice' to be more specific.
- xviii) In Section 29 (f), we recommend including the term 'confidential' so it will read as 'discloses confidential information acquired in the course of his or her duties...'
- xix) In Section 29 (j) we noted the use of 'licensed' wording is inconsistent with 'registered' wording currently in the Bill.
- xx) In Section 29 (k), we suggest to consider allowing a possibility where a social worker enters into a partnership with anyone as long as the partner does not provide social work services and also note that in Section 29 (l) there may be a situation where a

social worker might have a private practice and pay office staff or for rental space.

- xxi) Further in Section 29, we would like to recommend including 'a provision on overstepping the bounds of social work competencies in diagnosing or treating any condition for which the practitioner has not received sufficient training' to be part of an act of professional misconduct.
- xxii) In Section 24 (e), we recommend to specifically mention grants as 'government grants' especially as the government is going to be represented in the Council.
- xxiii) In Section 41 (1), we recommend 'may' to be replaced with 'shall' as the term 'may' signals 'optional'. Similarly, Section 41 (2), we recommend 'may' to be replaced with 'shall'.
- xxiv) With regard to Section 41 (a), we recommend reconsidering not to delegate 'the curriculum and the courses of study to be pursued by the students and candidates in order to satisfy the academic requirements of any particular registration'. An explicit responsibility can be given to a Training Curriculum Committee of the Institute (or the Council), in collaboration with the Council on University Curriculum or some other national entity and the Examination Board, working on the training curriculum and course of study.

We observe that the model in the proposed Bill foresees a Council which involves Government representatives (three Permanent Secretaries). We note that other countries have opted for models whereby social work councils are more independent. All models come with strengths and limitations, e.g. in terms of the agility of the day-to-day operation of the Council and decision making.

In conclusion, it is UNICEF's view that establishing a system for registration, certification and licensing social workers in Kenya to be a critical milestone for further professionalization of social service workforce in the county.

We remain available for further assistance on this important topic, **Ms. Monika Sandvik-Nylund, Chief Child Protection** [msandvinylund@unicef.org](mailto:msandvinylund@unicef.org). Tel. 0704 836 918.

Please accept the assurances of my highest consideration.

Jean Nsonjiba Lokenga  
Deputy Representative  
UNICEF, Kenya  
Nairobi, 3 March 2021

**From:** Daniel Matheka <dmmwendwah@gmail.com>  
**Sent:** 02 March 2021 21:50  
**To:** [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)  
**Subject:** INSTITUTE OF SOCIAL WORK PROFESSIONALS, 2020

Dear Sir/Madam,

I am a social worker by profession. I

would like to endorse the above mentioned bill and I request members of Parliament to fast track it because it is long over due. The bill is crucial in that it will enhance professionalism in the field of social work and community development in Kenya.

My recommendations are as follows:

1. There should be a provision in the bill providing a frame work for establishing a social workers and community development workers union to spear head the rights of workers.
2. The bill should include HIV testing services providers as medical social workers because currently the profession of HTS providers don't fall under any cadre.

Regards.

Daniel Mwendwa

**From:** scholastica oyula <[scholasticaoyula@gmail.com](mailto:scholasticaoyula@gmail.com)>

**Sent:** 03 March 2021 12:25

**To:** [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

**Subject:** Endorsement of Institute of Social Work Professional Bill 2020

I recommend the Institute to regulate the units studied by Social Workers from Certificate level upwards to be practical and competitive in the current world. I have a feeling that most employees prefer diploma graduates because of the units done.

Otherwise I endorse the Bill

**From:** Karani Onyiko <[onyiko@mmarau.ac.ke](mailto:onyiko@mmarau.ac.ke)>  
**Sent:** 03 March 2021 17:24  
**To:** [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)  
**Subject:** THE INSTITUTE OF SOCIAL WORK BILL, 2020

Dear clerk.

I wish to endorse the bill with the following changes:

1. The bill must define who a social worker is. It has only defined what sw is.
2. As an academician, my key concern is on a section that talks about Courses one must take to be registered/licensed as a social worker in Kenya. We recommend the following core social work courses: Introduction to Social Work; Human Growth and Development; Social work research methods; Social work theory, family and child welfare, social law, social policy and administration, counselling; Social work values and ethics; Human diversity; Social and economic justice, Human behavior and the social environment, Populations at risk, and, field practicum.
3. How about those who graduate from TTIs and middle level colleges with their own curriculum?
4. Categorization of social workers e.g if done certificate in sw, do I get a similar Registration certificate as a PhD social worker.
5. The examination board to set professional courses for those who would like to be licensed to practice in different fields. So, how will the board set professional exams considering the different cadres of social workers?
6. Who will be training these professional courses? Is it the Universities?
7. How will the law treat para social workers, no training at all in sw yet they hold very senior positions in Gvt or in NGOs?
8. For academics/ practitioners who will want to transit to private practice, how will the law regulate the setting up of private practice?
9. Nature of Experience required to qualify to be Chair or Executive director of the sw Council MUST be clearly defined. Is it any sort of practice?.
10. Include the Ethic and Values in Social work that govern social work practice in law and penalty of violation as schedules.

Best regards

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**From:** gacheke 09 <[gacheke09@gmail.com](mailto:gacheke09@gmail.com)>  
**Sent:** 03 March 2021 16:48  
**To:** [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)  
**Subject:** I ENDORSE THE SW BILL

On my own behalf as a professional social worker in Kenya working in the academia, , i hereby write to FULLY ENDORSE and support the INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL, 2020. This bill when it becomes law will significantly professionalize sw education and practice for the benefit of all present and future generations of social workers.

Thank you and God bless.

Phyllis Muraguri,

Social Work Educator,

Association of Social Work Educators in Kenya-A.S.W.E.K.

**From:** alyfa njeri <[alyfanjeri@gmail.com](mailto:alyfanjeri@gmail.com)>  
**Sent:** 03 March 2021 15:57  
**To:** [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)  
**Subject:** Institute of Social Work Profession bill

My name is Alyfa Njeri K. holding a bachelor degree in social work from Moi University. I support the endorsement of the bill and have faith in lawmakers and the house at large to fast track the deliberations process. Be part of the history in making. Thank you in advance.

Regards

Alyfa

**From:** Kate Binelli <[katybinelli@gmail.com](mailto:katybinelli@gmail.com)>

**Sent:** 03 March 2021 17:03

**To:** [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

**Subject:** Comment on the Institute of Social Work Professionals Bill

Dear Sir/ Madam

I am a student at The Catholic University of Eastern Africa pursuing a Degree in Social Work.

My prayer and wish are that the Bill passes into law.

However, I recommend that The Title of the Bill Should Read; Social Work Professionals Bill. And that Criminology should be added as one of the courses

Regards

Catherine Binelli