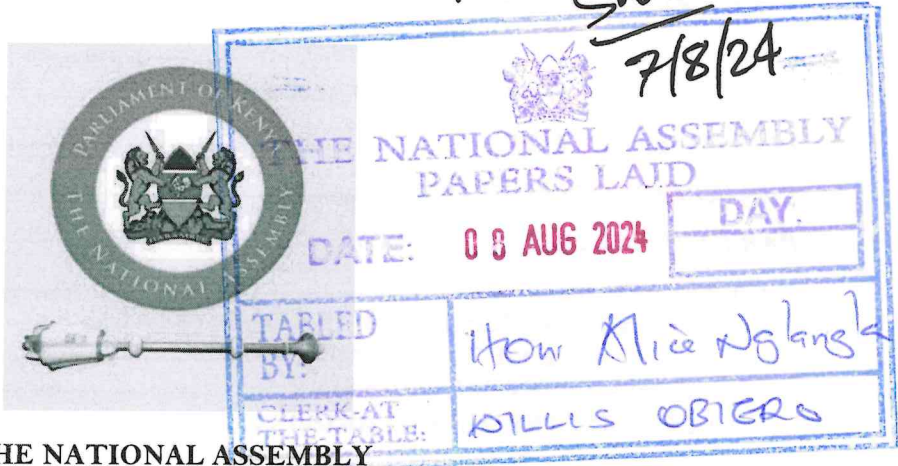


Approved & tabling
SNA



THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION

**REPORT OF THE DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION ON ITS
CONSIDERATION OF THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL
(NATIONAL ASSEMBLY BILL NO. 17 OF 2023)**

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

AUGUST 2024



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LIST OF ABBREVIATIONS AND ACRONYMS

ASWEK	-	Association of Social Work Educators in Kenya
KNASW	-	Kenya National Association of Social Workers
ODM	-	Orange Democratic Movement
SWAAB	-	Social Work Accreditation and Advisory Board
UDA	-	United Democratic Alliance
UDM	-	United Democratic Movement

LIST OF ANNEXURES

1. Report Adoption Schedule
2. Committee Minutes
3. Copy of the newspaper advertisement on public participation
4. Letters inviting stakeholders to meetings with the Committee
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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Social Protection on its consideration of the Institute of Social Work Professionals Bill (*National Assembly Bill No. 17 of 2023*). The Bill underwent First Reading on 27th September 2023 and was thereafter committed to the Departmental Committee on Social Protection for consideration and reporting to the House pursuant to the provision of Standing Order 127(1).

The Bill has forty-two (42) clauses and an attendant Schedule, which seek to provide for the examination, registration and regulation of the standards and practice of social work professions. Towards this objective, the Bill seeks to provide for the establishment of the Institute of Social Work and the Social Work Professionals Board, the Institute's Council as well as the Institute's Board. The Bill therefore contains provisions for requisite qualifications, issuance of practicing certificates, offences and penalties, delegation of powers, as well as disciplinary and financial provisions. The Bill seeks to ensure that the social sector in the country is well regulated by providing a proper framework for monitoring social work professionals through registration and standardized regulation.

Following placement of advertisements in the print media on 2nd October 2023 seeking public and stakeholder views on the Bill pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Departmental Committee on Social Protection received memoranda from the National Executive through the State Department for Social Protection and Senior Citizen Affairs under the Ministry of Labour and Social Protection, as well as from the Association of Social Work Educators in Kenya (ASWEK).

The Committee also invited stakeholders vide letter REF: NA/DC-SP/BILL/2023/058 dated 23rd November 2023 for a stakeholders' engagement meeting on the Bill which was held in several meetings venues within the precincts of Parliament on 22nd November 2023, 30th November 2023, 9th April 2024 and 23rd April 2024. The Mover of the Bill (Hon. Joshua Kivinda Kimilu, MP) and Association of Social Work Educators made oral presentations before the Committee, while the State Department for Social Protection and Senior Citizen Affairs provided written submissions on the Bill.

Generally, the stakeholders were of the view that there are currently no laws in place to effectively deal with social work, and the existing measures are ineffective to carry out the role. They observed that some amendments need to be effected on the Bill so as to align it to the Constitution of Kenya and various statutes, in addition to making the proposed law effective.

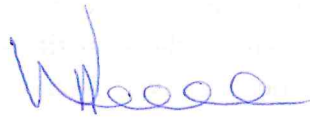
They averred that there is need to establish a Council to register, regulate and license social work professionals in the country.

In considering the Bill, Members observed that the legislation was timely and much needed as the sector had experienced a myriad of challenges including the increase of unqualified persons masquerading as professional social workers.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank the Mover of the Bill, Hon. Joshua Kivinda Kimilu, MP and all stakeholders who made their respective submissions on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made valuable input during consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Social Protection and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of The Institute of Social Work Professionals Bill (*National Assembly Bill No. 17 of 2023*).

I thus wish to table this Report on The Institute of Social Work Professionals Bill (*National Assembly Bill No. 17 of 2023*) in this Honourable House, with the recommendation that the Bill be **approved with amendments** as reported by the Committee, which are contained in this Report.



The Hon. Alice Wambui Ng'ang'a, CBS, M.P.
Chairperson, Departmental Committee on Social Protection

PART ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Social Protection is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
- iii. On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. **To study and review all the legislation referred to it;***
- v. To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on appointments);*
- viii. To examine treaties, agreements and conventions;*
- ix. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- x. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. To examine any questions raised by Members on a matter within its mandate.*

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider, social welfare and security, pension matters, gender affairs, equality and affirmative action, affairs of children, youth, persons with disability and senior citizens.
3. In executing its mandate, the Committee oversees the following State departments and Commission;
 - i. The State Department for Social Protection and Senior Citizen Affairs
 - ii. The State Department for Gender and Affirmative Action
 - iii. The State Department for Youth Affairs and Creative Economy
 - iv. The State Department for Public Service (NYS)

v. The National Gender and Equality Commission (NGEC)

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Social Protection was constituted by the House on 27th October 2022 and comprises of the following Honourable Members:

Chairperson

Hon. Alice Wambui Ng'ang'a, CBS, MP
Thika Town Constituency

UDA Party

Vice-Chairperson

Hon. Hillary Kiplang'at Koskei, MP
Kipkelion West Constituency

UDA Party

Hon. (Dr.) James Wambura Nyikal, MP
Seme Constituency

ODM Party

Hon. Timothy Wanyonyi Wetangula, MP
Westlands Constituency

ODM Party

Hon. (Dr.) Lilian Achieng Gogo, MP
Rangwe Constituency

ODM Party

Hon. Mark Ogolla Nyamita, MP
Uriri Constituency

ODM Party

Hon. Edith Vethi Nyenze, MP
Kitui West Constituency

WDM-K PARTY

Hon. Betty Njeri Maina, MP
Murang'a County

UDA PARTY

Hon. Michael Wambugu Wainaina, MP
Othaya Constituency

UDA Party

Hon. Sulekha Hulbale Harun, MP
Nominated Member

UDM Party

Hon. Amina Abdullahi Dika, MP
Tana River County

KANU PARTY

Hon. Hussein Abdi Barre, MP
Tarbaj Constituency

UDA Party

Hon. Susan Nduyo Ngugi, MP
Tharaka Nithi County

TSP PARTY

Hon. Agnes Mantaine Pareiyo, MP
Narok North Constituency

JUBILEE PARTY

Hon. Linet Chepkorir, MP
Bomet County

UDA PARTY

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following staff:

Mr. Finlay Muriuki
Lead Clerk/ Head of Secretariat

Mr. Ahmednoor Hassan
Clerk Assistant III

Ms. Jemimah Waigwa
Senior Legal Counsel

Mr. Adan Ahmed Abdi
Fiscal Analyst II

Ms. Grace Maneno
Research Officer III

Mr. Benjamin Ochutsi
Hansard Officer III

Ms. Naomi Onsomu
Public Communications Officer

Mr. Derrick Kathurima
Media Relations Officer

Mr. Cosmas Akhonya
Audio Recording Officer

Ms. Eva Kaare
Serjeant-at-Arms

PART TWO

2 BACKGROUND OF SOCIAL WORK REGULATIONS IN KENYA

2.1 INTRODUCTION

6. Social workers are trained professionals who provides professional social service to individuals in need. They operate within a framework of well-defined ethical codes and seek to rebuild and restore the functioning of individuals in the society.
7. Social Work education and training in Kenya has been growing with several public and private universities today, with undergraduate and post graduate social work training programmes being offered. Graduates from these training programmes constitute the social service workforce in Kenya. However, the social work services have for a long time been provided for in a disjointed *ad hoc* manner despite the existing sound social work training programmes.
8. There exists fragmented regulation governing social work in Kenya despite being a sector that deals with the rights of the vulnerable in the society such as children and persons with disabilities.

2.2 SITUATIONAL ANALYSIS

9. Currently, the roles and responsibilities of social workers include:
 - i) working with communities to identify their needs, strengths, and resources, and then develop and implement programs to address those needs using the available resources;
 - ii) ensuring the well-being and safety of children, especially those in vulnerable situations;
 - iii) working in hospitals, clinics, or community health centers as well as provide support to individuals and families dealing with health challenges;
 - iv) working in schools, addressing issues such as truancy, school dropouts, and behavioural problems. They collaborate with teachers, parents, and other professionals to create a supportive learning environment;
 - v) providing counselling and support for individuals dealing with mental health issues;
 - vi) working or collaborating with Government and Non-Governmental Organizations (NGOs); Social workers in Kenya may work with organizations that implement various programs and projects to address social issues and promote community well-being.
10. Some specific roles and designations of social workers include; program officers, researchers for social issues, social welfare officers, social planners, extension workers, community mobilizers, gender mainstreaming advocates, rehabilitation specialists, probation and alternative correctional officers, child welfare officers, etc.

2.3 COMPARATIVE ANALYSIS

11. In Canada, the Canadian Association of Social Workers (CASW) is guided by the Code of Ethics that provides a consistent set of values, principles and standards of conduct for all social workers across Canada. Social workers can use the Code of Ethics are instrumental in guiding the social workers to

make informed and appropriate decisions in the complex situations they encounter in their line of work.

12. The Code of Ethics upholds the following six key value;
 - i) Respect for the inherent dignity and worth of persons
 - ii) Pursuit of social justice
 - iii) Service to humanity
 - iv) Integrity in professional practice
 - v) Confidentiality in professional practice
 - vi) Competence in professional practice
13. Canada does not have a common Act that applies uniformly across the country but there are social work regulatory bodies under respective jurisdiction of provinces and territories that oversee social work practice and ensures that social workers meet specific standards of education, competence, and ethical conduct. These regulatory bodies are responsible for licensing, setting standards, handling complaints, and ensuring that social workers provide competent and ethical services.
14. The Social Workers Act of British Columbia provides for the registration, licensing and issuance of certificates, complaints handling, professional standards and ethics, and other administrative functions of the social workers in the British Columbia Province in Canada.
15. In **South Africa**, the South Africa's Social Service Professions Act 110 of 1978 provides for the establishment of a Council for Social and Associated Workers and to define its powers and functions; for the registration of social and associated workers; for control over the profession of social work and associated professions; and for incidental matters.
16. The Act has several provisions that are similar to the Institute of Social Work Professionals Bill. These include provisions for the establishment of a Council; its objects, powers and functions, qualifications of members of the Council, disciplinary powers of the Council, and so on.
17. The Social Service Professions Act also provides for the Registration of Social and Associated Workers. It states that unregistered persons shall not practice the profession of social work or an associated profession.
18. In **India**, the National Council of Social Service Act 1992 provides for the establishment of a body called the National Council of Social Service, which is a body corporate with perpetual succession and a common seal and with powers to sue and be sued in its corporate name and to perform any other acts that a body corporate may by law perform.
19. The Act provides for the constitution of the Council, the board of the council, functions and powers of the Council, etc. It further provides for appointment of Committees and delegation of powers. Membership fees and financial provisions.
20. In **Singapore**, the Social Work Accreditation and Advisory Board (SWAAB) is responsible for registration of social workers in Singapore. The Singapore Association of Social Workers (SASW) has the responsibility of promoting the quality and effectiveness of social work in Singapore. The Code of Professional Ethics (Code) applies to social workers who practice in Singapore and they are

expected to abide by the Code. The Code reflects the values, defines the principles, and sets the standards for all social work practice in Singapore.

PART THREE

3 OVERVIEW OF THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2023)

3.1 INTRODUCTION

21. The Bill provides 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. The Institute of Social Work Professionals as a body corporate shall consist of persons registered as members of the Institute and associate members.
22. The term 'social work' is 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 in connection with health, education, or social services to facilitate the achievement of optimum psychosocial functioning.
23. The functions of the Institute shall include; to regulate the practice, competence and professional conduct of social work professionals; register persons who meet the required professional requirements and advise the Registration Committee and Examination Board.
24. The Bill provides for the establishment of a Council which shall consist of 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; Principal Secretaries for Health, Correctional Services and Social Welfare and five other members elected by the members of the Institute. The members shall serve for a term of three years and shall be re-eligible for re-election for one further term. An executive director shall be appointed, who will be the secretary of the Council.
25. An examination board responsible for among other things, preparing and conducting examinations for persons seeking registration under the Act shall be established. A registration Committee shall also be put in place and its functions will include to: receive applications for registration and grant practicing certificates; monitor compliance with professional quality assurance and other standards published by the Council and advise the Council on matters pertaining to professional and other standards.
26. The qualifications and procedure for application, registration and issuance of certificate as a social work professional and grounds for disqualification for registration have been provided for in the Bill. It is further stated that no person shall practice as a registered social work professional unless the person has been issued with a valid practicing certificate.
27. Professional misconduct has been provided for and a disciplinary committee consisting of five members appointed by the Council from among members of the Council shall be established.
28. The Bill provides for the source of funds and consequently obligates the Council to prepare estimates of revenue and expenditure of the Council, at least three months before the commencement of each financial year.
29. A person who is not eligible to be registered under the Act and 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.
30. The Bill provides for transition and stipulates that 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.

3.2 REVIEW OF THE BILL

The Institute of Social Work Professionals Bill, 2023 (National Assembly Bill No. 17 of 2023) is a Bill sponsored by the Hon. Hon. Joshua Kimilu. The Bill 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 and practice of social work professionals; and for connected purposes. The Bill is divided into nine (9) parts composed of 42 clauses and one Schedule, which contain the following provisions.

31. **Part 1 of the Bill** contains the preliminary provisions. Clause 1 is the short title. Clause 2 of the Bill provides for the definition of various terms as used in the Bill including the definition of the term 'social work' which 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.
32. **Part II of the Bill** provides for the establishment of the Institute of Social Work Professionals as a body corporate that shall consist of fellows, persons registered as members of the Institute and associate members as provided for in clauses 3 and 4.
33. Clause 5 of the Bill provides for the functions of the Institute which includes to regulate the practice, competence and professional conduct of social work professionals; register persons who meet the required professional requirements and advise the Registration Committee and Examination Board.
34. Clause 6 of the Bill provides for the establishment of the Council of the Institute which shall consist of 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; Principal Secretaries for Health, Correctional Services and Social Welfare and five other members elected by the members of the Institute. The members shall serve for a term of three years and shall be re-eligible for re-election for one further term.
35. Clause 7 of the Bill provides for the appointment of the Executive Director of the Institute who shall be the secretary of the Council.
36. The Part also provides for the establishment of the Examination Board which shall consist of four persons who shall be registered social work professionals nominated by the Council; two persons nominated by the Cabinet Secretary of the Ministry for the time being responsible for education; two persons nominated by the Commission for University Education and one person nominated by the Attorney General.

37. Clause 16 of the Bill provides that the Board shall be responsible for among other things preparing and conducting examinations for persons seeking registration under the Act.
38. **Part III of the Bill** provides for the establishment of a committee to be known as the Registration Committee comprising of a chairperson appointed by the Council from amongst its members; one person nominated by the Federation of Kenya Employers; one person nominated by the Examination Board; one person nominated by the Kenya National Examination Council; the Attorney-General or his representative designated in writing.
39. Clause 17 of the Bill provides for the functions of the Committee which include to: receive applications for registration and grant practicing certificates; monitor compliance with professional quality assurance and other standards published by the Council and advise the Council on matters pertaining to professional and other standards.
40. Clauses 18 and 19 of the Bill provide for the qualifications for registration as a social work professional and grounds for disqualification for registration. A person shall be eligible to be registered as a social work professional if such person is of good conduct; has paid the prescribed fees; 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 social work theory and practice among others; 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 holds such other qualifications as the Council may prescribe.
41. A person is disqualified for registration if the person is convicted by a court of competent jurisdiction in Kenya or elsewhere of any offence involving fraud or dishonesty; is a undischarged bankrupt; is certified as being of unsound mind by a medical practitioner; or is found by the Council to be guilty of professional misconduct in accordance with this Act; and fails to meet the requirements of Chapter Six of the Constitution.
42. Clauses 21 and 22 of the Bill provide for the procedure for application for registration and the issuance of certificate of registration by the Committee. Clause 27 of the Bill provides that a person registered shall use the title "Registered Social Work Professional".
43. **Part IV of the Bill** provides for the application of practicing certificates to the Registration Committee. Clause 28 of the Bill provides that no person shall practice as a registered social work professional unless the person has been issued with a valid practicing certificate.
44. **Part V of the Bill** provides for discipline of Members. Clause 28 provides for professional misconduct and stipulates that a person registered under the Act commits an act of professional misconduct if the person on among other grounds deliberately fails to follow lawful social work procedures stipulated by his or her employer or client. Clause 30 of the Bill provides for establishment of the disciplinary committee which shall consist of five members appointed by the Council from among members of the Council.
45. Clause 31 of the Bill provides for reference of professional misconduct cases to the Committee by the Council. Where satisfied that a member has committed an act of professional misconduct, the Committee may recommend that the member be formally admonished; that the member be suspended for a period not exceeding twelve months; the withdrawal or cancellation of the practicing certificate of the member for such period not exceeding five years; the imposition of a

fine; or the removal of the Members name from the Register. An aggrieved person may appeal to the Council or the High Court.

46. **Part VI of the Bill** provides for the financial provisions.
47. **Part VII of the Bill** provides for the offences and penalties. Clause 38 of the Bill provides that a person who, not being eligible to be registered under the 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.
48. **Part VIII of the Bill** provides for the provisions on delegated powers by providing that the Council may make regulations generally for the better carrying out of the provisions of the Act.
49. **Part IX of the Bill** provides for transitional provisions. Clause 42 of the Bill provides that the National Executive Council of the Kenya National Association of Social Workers existing before the enactment of the Act shall assume the responsibilities imposed on the Council and Registration Committee by the Act as an Interim Council and Interim Registration Committee until the first elections held under the Act.
50. 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 the Act.
51. 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.
52. 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 the Act.
53. **The Schedule to the Bill** provides for the provisions on the conduct of the business and affairs of the Council.

PART FOUR

4 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

54. Following the call for memoranda from the public through placement of adverts in the print media on 2nd October 2023 and vide a letter Ref: NA/DC-SP/BILL/2023/058 dated 23rd November 2023 inviting stakeholders for a meeting, the Committee received memoranda from the following stakeholders:
- i. The State Department for Social Protection and Senior Citizen Affairs under the Ministry of Labour and Social Protection.
 - ii. Association of Social Work Educators in Kenya (ASWEK)
55. In addition, the Committee sought representation from the Kenya National Association of Social Workers (KNASW), but no submission was received from the Association.
56. The Committee held a meeting with the Association of Social Work Educators in Kenya on 9th April 2024 and 23rd April 2024. The analysis of the submissions made by the Principal Secretary, State Department for Social Protection and Senior Citizens and the Association of Social Work Educators are contained hereunder. The Committee further held a meeting on 30th November 2023 with the sponsor of the Bill, Hon. Joshua Kimilu, M.P, and also met a representative of the Association of Social Work Educators in Kenya.

The stakeholders submitted as follows:

4.1 State Department for Social Protection and Senior Citizen Affairs, and the Association of Social Work Educators in Kenya (ASWEK)

57. In their written and oral submissions in response to the advertisement and the Committee's invitation, the State Department for Social Protection and Senior Citizen Affairs as well as the Association for Social Work Educators in Kenya proposed the following amendments to the Bill:

Clause 1-Short Title

Submission by the State Department for Social Protection and Senior Citizen Affairs

The short title be amended to read "The Act may be cited as the Social Workers Professionals Act, 2023".

Submission by the Association of Social Work Educators

The short title be amended to read "The Act may be cited as the Social Work Professionals Act, 2023".

Committee's Observation

The Bill seeks to regulate social work professionals and hence the title should be amended to align with the contents of the Bill. The

58. Long Title of the Bill:

Submission by the Association of Social Work Educators

Delete the long title of the Bill to read as follows:

“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 and for connected purposes.”

Committee's Observation

The long title of the Bill is sufficient and correctly captures the objects of the Bill. The Bill makes reference to the Institute of Social Work Professions which is established under clause 3 and hence the long title should not be amended.

59. Clause 2 of the Bill

Submission by the State Department for Social Protection

Add the definition of the term “social worker” which means a person registered pursuant to the Act to practice social work in Kenya”.

Further, amend the definition of the term Cabinet Secretary to mean the Cabinet Secretary responsible for matters relating to social services and social protection.

Submission by the Association of Social Work Educators

Amend clause 2 to insert a new definition of the term a Social Work Professional to mean “a person who is registered under section 21 of the Act”.

Further, amend clause 2 to rename the term practicing certificate to “Practicing License”. Additionally, amend clause 2 to rename Registration Committee to Registration and Licensing Committee.

Committee's Observation

There is need to provide for a definition of the term “social work professional” as used in the Bill to create clarity. Reference to the term practicing certificate already aligns the Bill with best practices on regulation of professionals. There is need to amend the definition of the term Cabinet Secretary to refer to the correct description.

60. Clause 5 of the Bill

Submission by the State Department for Social Protection

Amend clause 5 of the Bill to provide that the Council shall regulate the practice of social work; advance and promote the practice of social work; encourage members to participate in affairs of promoting the practice of social work in the best interest of the public; advise the examinations board on matters relating to examination standards and policies among other functions as contained in the written submission marked as Annex 5A. The amendment is intended to ensure that the functions are placed with the appropriate body which is the Council.

Further, amend clause 5 to insert new sub-clauses to provide for the power of the Council to appoint such committees or panels as may be necessary to perform its functions under the Act and also provide that the Council may delegate the powers and duties of the Council to a committee, panel or a member of the Council.

Committee's Observations

Clause 5 of the Bill is elaborate and exhaustive on the functions of the Institute. Further, clause 6 of the Bill provides that the management of the Institute shall vest on the Council and hence it shall be responsible for performance of the functions of the Institute. There is need for the Council to provide for the power of the Council to appoint such Committees as may be necessary for performance of its functions. The proposed new sub-clause (3) on delegation of powers of the Council may not be necessary in light of clause 10 of the Bill which already provides for the powers of the Council to delegate its powers.

61. Clause 6 of the Bill

Submission by the State Department for Social Protection

Amend clause 6 to provide that the management of the Institute shall vest in the Council comprising of:

- (a) Chairperson elected in the manner provided for in paragraph 1 of the Second Schedule;
 - (b) the Principal Secretary of the Ministry responsible for social services and social protection;
 - (c) one person nominated to represent the Commission for University Education;
 - (d) Six other members elected in the manner provided for in the Third Schedule whom shall be social workers; and
 - (e) the Executive Director, as ex-officio.
- (2) The Chairperson or a member elected under subsection (a), (c) and (d) shall hold office for a period of 3 years and may be eligible for re-election for a further and final term of 3 years.
- (3) A member seeking election as chairperson or member shall be person who:
- (a) is a Kenyan;
 - (b) holds a bachelor's degree in social work from a recognized university in Kenya;
 - (c) has at least 10 years of experience in social work practice;
 - (d) is a registered member of the Institute; and
 - (e) has not been disqualified under the provisions of the Third Schedule.

Justifications:

The amendments conform with the provisions under the second and the third schedule with regard to the election of the chairperson and members of the Council. Additionally, the

amendments delete the representation of Principal Secretaries for correctional services and health respectively and provide for the Principal Secretary for social services to allow other relevant persons to be co-opted during meetings. The amendments also provide for representation from CUE which is a key stakeholder in development and accreditation of social work programs at the universities. Additionally, the amendments provide clarity on qualifications for election as chairperson and members of the Council and their term of office.

Submission by the Association of Social Work Educators

Amend the marginal note in Clause 6(1) to delete the words “Council of the institute” and substitute with the words “Composition of the Council”.

In subclause (1): By deleting paragraph (a) and substituting therefor the following new paragraph:

- (a) a chairperson appointed by the Cabinet Secretary from amongst persons nominated under paragraph (e);

By deleting the words “matters relating to social welfare, the elderly and vulnerable persons” appearing in paragraph (d) and substitute therefor the words “social services and protection. The amendment is necessary to align clause 6(1)(d) with the responsible Ministry as provided for in the Bill which is the Ministry responsible for social services and social protection.

By deleting paragraph (e) and substituting therefor the following new paragraph:

- (e) six other members, who shall be persons with knowledge and experience in social work, nominated by social work professionals and appointed by the Cabinet Secretary;

By inserting the following new subclauses immediately after sub-clause (1):

(1A) A person qualifies for appointment as a Chairperson of the Council under subsection (1)(a), if the person —

- (a) holds a bachelor’s degree in social work from a university recognized in Kenya;
- (b) is a registered social work professional;
- (c) has had at least ten years proven experience in social work; and
- (d) meets the requirements of Chapter Six of the Constitution.

(1B) A person qualifies for appointment as a Member of the Council under subsection (1)(e), if the person —

- (a) holds a bachelor’s degree in social work from a university recognized in Kenya;
- (b) is a registered social work professional;
- (c) has had at least eight years proven experience in social work; and
- (d) meets the requirements of Chapter Six of the Constitution.

The amendments seek to create clarity on the qualifications for appointment as a chairperson and members of the Council.

Committee’s Observations

There is need to provide clarity on the qualifications for appointment as chairperson and

members of the Council. Noting the key role of the Council is to regulate the social work profession, its membership should reflect its functions as a professional body with limited government representation. The provisions for the conduct of elections of the chairperson and members of the Council, holding of annual general meetings and any other procedures should be provided for in regulations and not the Act. The representation of the Commission of University Education to the Council is critical considering its role in accreditation of social work programs.

62. Clause 7 of the Bill

Submission by the Association of Social Work Educators

Amend sub-clause (1) to delete reference to the term “Executive Director” and substitute with “Registrar”. Further, amend sub-clause (2) to insert a new paragraph to provide for the academic qualifications for appointment as a Registrar which shall be:

(aa) holds a bachelor’s degree in social work from a university recognized in Kenya.

Committee’s Observations

There is need to provide clarity on the academic qualifications for appointment as an Executive Director. The Bill does not make reference to the term Registrar in any other provision and hence change of terminology may not create harmony with other existing provisions of the Bill.

63. Clause 15 of the Bill

Submission by the State Department for Social Protection

Delete sub-clause (2) and amend sub-clause (3)(a) to read as follows:

(a) four social work professionals appointed by the Council who represent the diversity of various fields of social work practice, reflect gender, racial and ethnic composition of Kenya and one of whom is teaching at university offering social work.

Insert new paragraph (e) to read:

(e.) the Council shall appoint a chairperson of the Board from among the members under sub-section (3)(a).

Insert a new sub-clause (5) as follows:

The Board shall regulate its own meetings.

Justifications:

The Examination body is an autonomous body independent from the Institute since it has a corporate status. This is against best practice where professional exams are conducted under the supervision of the governing body being the Council. There is need to provide clarity on the diversity of persons to be appointed to the Board and further provide for the manner of the conduct of the affairs of the Board.

Submission by the Association of Social Work Educators

Amend clause 15 by deleting sub-clause (2) which provides for the nature of the Examination Board as a corporate body. The justification for the amendment is that the Examination Board is one of the organs of the Council and hence creating it as a body corporate would be

tantamount to creating a separate body with functions similar to the Council as provided for under clause 5(g) and (h).

Committee's Observations.

The Council is the governing body on matters relating to examination as provided for in clause 5(g) and (h). In this regard, the Examination Body cannot be of corporate status and autonomous from the Council. There is need to ensure that the appointment of the four persons to the Board reflect diversity in terms of social work practice and ethnic composition. Further, there is need to provide that the Board shall regulate its own meetings in terms of procedure.

64. Clause 16 of the Bill

Submission by the State Department for Social Protection

Delete clause 16 and substitute the following new clause 16:

16. The Board shall examine persons seeking to be registered as social workers.

Further, insert a new clause to provide for the remuneration of the members of the Examination Board.

Justifications

The functions of the Examination Board were moved to the Council. The amendment also provides for the remuneration of the members of the Board.

Submission by the Association of Social Work Educators

Amend clause 16 by deleting paragraph (e). Further, amend clause 16 by deleting paragraph (i). The justifications for the amendments are that the function of issuance of certificates and other awards to candidates who satisfy examination requirements is already provided for under paragraph (f). Additionally, all monies collected under the Act are payable to the Council.

Committee's Observations.

The functions of the Examination Board are specific to the Board and hence should be retained. There is need to make provision for the remuneration of the board members. Clause 16(e) on issuance of certificates should be deleted as paragraph (f) already provides for the same. Additionally, noting all monies collected under the Act are payable to the Council, paragraph (i) should be deleted.

65. Clause 17 of the Bill

Submission by the State Department for Social Protection

Delete clause 17 to abolish the Registration Committee as the functions of the Registration Committee are to be exercised by the Council. The Council can also constitute a Registration Committee and assign it functions as it deems it fit.

Committee's Observations.

The Registration Committee is an important administrative body conferred with specific

functions which relate to the receiving of applications for registration and monitoring compliance with professional quality assurance and other standards published by the Council, among other functions and hence should be retained.

66. Clause 18 of the Bill

Submission by the State Department for Social Protection

Delete clause 18 on qualifications for registration as a social work profession to provide that only a person who is a holder of Bachelor's Degree in social work from a recognized university in Kenya; has subsequent to obtaining the degree completed at least 2 years of experience under a registered social worker that in the opinion of the Council demonstrates competence in the field of social work; has passed examinations required by the Council; is of good conduct and has paid the prescribed fees, shall be qualified for registration.

Submission by the Association of Social Work Educators

Delete paragraphs (a) to (j) as the fields for qualification for registration are beyond what is contained in paragraphs (a) to (j) and hence there is need to leave it open and allow for such prescription of the courses to be done through regulations. Delete the words "research course" appearing in paragraphs (c) and (d) as research course should not be a qualification for registration.

Committee's Observations.

The social work practice includes social work professionals who are holders of certificates and diploma in social work and hence the amendment to limit the qualification for registration to a degree would lock out a majority of the practitioners and limit access to social work services by Kenyans. The prescription of the courses for qualification for registration should be provided for in regulations and research course should not be a qualification for registration.

67. Clause 19 of the Bill

Submission by the State Department for Social Protection

Amend clause 19 to insert new sub-clauses to require the Council to inform an applicant where the application for registration has not been approved by the Registration Committee and further allow such a person to appeal against such a decision to the Council.

Committee's Observations.

The amendments seek to entrench fair administrative action in decision making. However, there is need to provide for the timelines for informing an applicant and the period for filing an appeal against the decision of the Registration Committee.

68. Clause 20 of the Bill

Submission by the State Department for Social Protection

Delete paragraph (b) which provides that a person may register a social work firm if 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 substitute with the “firm has shareholders who are registered as social work professionals and have valid practicing certificates”. The amendment shall ensure that only registered and licensed social workers operate social work firms.

Submission by the Association of Social Work Educators

Insert “.....worker...” between social and professional to correct a typographical error to make reference to the term social work professional.

Committee’s Observations.

The amendment although intended to ensure that only registered and licensed social workers operate social work firm, there is need for the management of such firms to also have persons who are registered as social work professionals.

69. Clauses 21, 23 and 28 of the Bill

Submission by the State Department for Social Protection

Delete the expression “Registration Committee” and replace with Council in clauses 21, 23 and 28.

Committee’s Observations.

The Registration Committee is an important administrative body conferred with specific functions which relate to the receiving of applications for registration and monitoring compliance with professional quality assurance and other standards published by the Council, among other functions and hence should be retained.

70. Clause 24(4) of the Bill

Submission by the State Department for Social Protection

Add use of email as a means of communication on notification for removal from register.

Committee’s Observations.

There is need to embrace an efficient mode of communication for issuance of notification for removal from a register.

71. Part IV of the Bill on practicing certificate.

Submission by the State Department for Social Protection

There is need to provide for the date and validity of the practicing certificate and further provide that a practicing certificate issued to any person shall remain the property of the Institute. This will avoid confusion as to whether the certificate once obtained is for a lifetime or for a specific duration. The amendment further shall create clarity on the provisions under clause 28(6).

Submission by the Association of Social Work Educators

In sub-clause (1) include the words "... unless the person has been issued with a valid practicing license which is renewable every two (2) years." The Bill does not contain provisions for renewal of licence.

Committee's Observations.

There is need to provide for provisions for the period of validity of practicing certificates. Clause 28(6) is clear that where a practicing certificate ceases to be in force, 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. There is hence no need to provide that the practicing certificates shall be the property of the Council.

72. Clause 29(g) of the Bill.

Submission by the Association of Social Work Educators

Delete the words "... favours of a sexual kind..." appearing in clause 29(g) as the words are unnecessary.

Committee's Observation

Reference to the words "favours and other benefits" include of a sexual kind.

73. Clause 30 of the Bill

Submission by the State Department for Social Protection

Include the quorum of the Disciplinary Committee to ensure clarity under what circumstances a hearing can proceed based on number of members present.

Committee's Observation

There is need to provide for the quorum of the Committee to govern its proceedings.

74. Clause 42 of the Bill

Submission by the State Department for Social Protection

Amend the transitional to provide that the Cabinet Secretary for social services and social protection shall at the commencement of the Act appoint an interim Council in accordance with section 6.

The members shall remain in office until after the first elections. Despite section 18 any person who before the commencement of the Act was engaged in social work practice shall within two years after the commencement of the Act apply for registration under the Act.

After expiry of the 24 months after the commencement of the Act, no person shall carry on the business or hold himself or herself out as being a social worker except in compliance with the Act.

Justifications:

The objective of the Act is to promote the social work profession in Kenya and hence the need to guide the Cabinet Secretary in appointment of the interim Council and ensure that it is inclusive. The 2-year period is adequate time for transition to registration. Sub-clause (4) is deleted as accreditation of academic requirements is a function of the CUE.

Submission by the Association of Social Work Educators

Delete sub-clauses (1), (2) and (3) and substitute the following: A person operating as a social worker shall within ninety days of commencement of the Act formalize his or her registration as prescribed under this Act.

Justification: Upon constitution of the Council, the Council should assume its functions and proceed to constitute the Registration Committee hence there is no need to establish an Interim Council.

Committee's Observations

75. The amendment for appointment of an Interim Council under section 6 is pegged on there being a procedure for election of the chairperson and members of the Council. As noted earlier, these are matters that should be provided for in regulations and not the Act to allow involvement of the relevant stakeholders including the social work professionals associations in the development of the same. In regard, to the proposal that the social work professionals do nominate members to the Interim Council, this may negate the autonomy and independence of social work professionals associations to elect and determine the persons to represent them in the Council. Further, the Bill as it is now recognizes only the representation of the Kenya National Association of Social Workers.
76. In this regard, in order to ensure inclusiveness, the Interim Council should be appointed by the Cabinet Secretary upon commencement of the Act comprising of seven persons as follows:
- (1) the Principal Secretary responsible for social services and social protection;
 - (2) two representatives nominated by the Kenya National Association of Social Workers’;
 - (3) two representatives nominated by the Association of Social Work Education in Kenya; and
 - (4) two representatives nominated by the Kenya Medical Social Workers Association.
77. For ease of transition, the Interim Council shall at its first meeting elect a Chairperson to be drawn from the three associations. The members of the Interim Council shall remain in office until after the first elections and shall within three months of the commencement of the Act, facilitate the formulation of the regulations that shall guide the election of chairperson and members of the Council. Within twelve months after the commencement of the Act, the Interim Council shall convene the first annual general meeting for the election of Council. There is also need to provide for adequate time for registration under the Act.

PART FIVE

5 COMMITTEE RECOMMENDATIONS

78. Pursuant to Standing Order 127, the Committee recommends that the Bill does proceed for Second Reading subject to the following amendments—

79. TITLE OF THE BILL

THAT, the title of the Bill be amended by deleting the words “Institute of”.

80. CLAUSE 1

THAT, clause 1 of the Bill be amended by deleting the words “Institute of”.

81. CLAUSE 2

THAT, clause 2 of the Bill be amended by—

- (a) inserting the word “social” immediately after the words “social services and” appearing in the definition of the term “Cabinet Secretary; and
- (b) inserting the following new definition in its proper alphabetical sequence—
“social work professional” means “a person who is registered under this Act to practice social work in Kenya”.

82. CLAUSE 5

THAT, clause 5 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1)—

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

83. CLAUSE 6

THAT, clause 6 of the Bill be deleted and substituted therefor the following new clause—

Composition of the Council.	6(1) The management of the Institute shall vest in a Council comprising of— <ul style="list-style-type: none">(a) a chairperson elected by the members of the Institute in the manner prescribed by regulations;(b) the Principal Secretary of the Ministry responsible for social services and social protection;(c) the Principal Secretary of the Ministry responsible for health;(d) one person nominated to represent the Commission for University Education;
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	<p>(e) five other members elected by the members of the Institute in the manner prescribed by regulations; and</p> <p>(f) the Executive Director, as an ex-officio.</p>
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(2) The chairperson or a member of the Council elected under subsection (1)(a), (d) and (e) 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.

(3) A person qualifies for appointment as a chairperson or member of the Council under subsection (1)(a), (d) and (e) if the person —

- (a) holds a bachelor's degree in social work from a university recognized in Kenya;
- (b) is a registered social work professional;
- (c) has had at least ten years proven experience in social work; and
- (d) meets the requirements of Chapter Six of the Constitution.

84. CLAUSE 7

THAT, clause 7 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (a)—

(aa) holds a bachelor's degree in social work from a university recognized in Kenya;

85. CLAUSE 15

THAT, clause 15 of the Bill be amended —

- (a) by deleting sub-clause (2);
- (b) in sub-clause (3), by deleting the word “nominated” appearing in paragraph (a) and substituting therefor the word “appointed”;
- (c) by inserting the following new sub-clauses immediately after sub-clause (3) —
 - (3A) In appointing the persons under sub-section (3)(a), the Council shall give regard to the diversity of various fields of social work practice, ethnic and gender representation.

(3B) The Board shall determine and regulate its own procedure.

(3C) The members of the Board shall be paid such allowances as may be determined by the Council.

86. CLAUSE 16

THAT, clause 16 of the Bill be amended by —

- (a) deleting paragraph (e); and
- (b) deleting paragraph (i).

87. CLAUSE 18

THAT, clause 18 of the Bill be amended —

- (a) by deleting paragraph (c) and substituting therefor the following new paragraph—
 - (c) has successfully undergone a prescribed certificate, diploma or degree and has passed the appropriate examination conducted or prescribed by the Institute;
- (b) in paragraph (d) by deleting the words “degree or research course of training” and substituting therefor the words “ or degree”.

88. CLAUSE 20

THAT, clause 20 of the Bill be amended by—

- (a) inserting the word “work” immediately after the words “a social” appearing in paragraph (b);
- (b) inserting the following new paragraph immediately after paragraph (b) —
 - (bb) the firm has shareholders who are registered as social work professionals and have valid practicing certificates;

89. CLAUSE 21

THAT, clause 21 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (3) —

- (4) Where an application for registration fails to meet the requirements specified in section 18, the Executive Director shall inform the applicant, in writing, within seven days of the decision of the Registration Committee.

- (5) Within three days of receipt of the notification under sub-section (4), a person may appeal the decision to the Council.

90. CLAUSE 24

THAT, clause 24(4) of the Bill be amended by inserting the words “electronic mail or” immediately after the words “removal by”.

91. CLAUSE 28

THAT, clause 28 of the Bill be amended by—

- (a) inserting the following new sub-clause immediately after sub-clause (4) —
 - (4A) A practicing certificate shall be renewable every two years.
- (b) inserting the words “Subject to subsection (4A) immediately before the words “A practicing certificate” appearing in sub-clause (5).

92. CLAUSE 29

THAT, clause 29 of the Bill be amended in sub-clause (1) by deleting the words “of a sexual kind” appearing in paragraph (g).

93. CLAUSE 30

THAT, clause 30 of the Bill be amended by inserting the following sub-clause immediately after sub-clause (3) —

(4) The quorum of the Committee shall be three of its members.

94. CLAUSE 42

THAT, clause 42 of the Bill be amended —

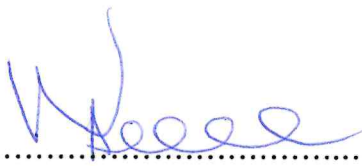
- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—
 - (1) The Cabinet Secretary shall at the commencement of this Act appoint an Interim Council consisting of—
 - (a) the Principal Secretary of the Ministry responsible for social services and social protection;
 - (b) two representatives nominated by the Kenya National Association of Social Workers’;
 - (c) two representatives nominated by the Association of Social Work Education in Kenya; and
 - (d) two representatives nominated by the Kenya Medical Social Workers Association.
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—
 - (2) The members of the Interim Council under sub-section (1)(b), (c) and (d) shall at the first meeting of the Interim Council elect a chairperson.
- (c) by inserting the following new sub-clause immediately after sub-clause (2) —
 - (2A) The chairperson and members of the Interim Council shall remain in office until after the first elections.
- (d) by inserting the words “prescribe regulations for the conduct of the first elections of the chairperson and members of the Council” immediately after the words “Interim Council shall” appearing in sub-clause (3).
- (e) by inserting the following new sub-clauses immediately after sub-clause (4)—
 - (5) Despite section 18, any person who before the commencement of the Act was engaged in social work practice shall within two years after the commencement of the Act apply for registration under this Act.

(6) After expiry of the period under sub-section (5), no person shall carry on the business or hold himself or herself out as being a social work professional except in compliance with this Act.

PART SIX

7 SCHEDULE OF PROPOSED AMENDMENTS

95. The Committee proposed the aforementioned amendments outlined in Part 6 of this Report be considered by the House in the Committee Stage:

SIGNED:  DATE: 01/08/2024

HON. ALICE WAMBUI NG'ANG'A, CBS, M.P.
(CHAIRPERSON, DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION)