

Social Workers Registration Amendment Bill

Government Bill

As reported from the Social Services and Community Committee

Commentary

Recommendation

The Social Services and Community Committee has examined the Social Workers Registration Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

About the bill

The Social Workers Registration Act 2003 established occupational regulations to ensure that social workers are fit to practise and accountable. The regulatory regime is intended to protect the safety of members of the public, and to enhance the integrity and professionalism of the social work profession. The Act also established the Social Workers Registration Board as an oversight body that manages the registration of social workers.

Under section 104 of the Act, the Board must review its operations and the operation of the Act at intervals of no more than five years. This bill results from the Board's 2020 review, and is intended to improve the efficacy of the Act. The bill proposes six main policy amendments to the Act, along with ten minor and technical amendments.

The main amendments seek to:

- broaden the grounds for interim suspension of a social worker when an investigation is being considered
- change the extension period for additional interim suspension periods from 10 days to a period of time that is reasonable and necessary for the Board to complete an investigation
- allow professional conduct committees to choose multiple outcomes for complaints or convictions, to better handle complex cases
- enable the Board to delegate registration functions

- add a monitoring function to the Board's responsibilities regarding prescribed educational qualifications
- transfer power from the Ministry of Social Development to the Board to obtain information for the purpose of investigating whether someone is practising, or holding themselves or others out, as a social worker without registration or a practising certificate.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

The following commentary covers the amendments we recommend to the bill as introduced.

Transfer of specified information

The bill as introduced would transfer investigative functions from the Ministry of Social Development to the Board. These functions include obtaining information for the purpose of investigating anyone practising as a social worker without registration or a practising certificate, or claiming to be a social worker.

Schedule 1 of the bill would insert new Part 2 into Schedule 1AA of the principal Act. Proposed clause 9 in this schedule sets out transitional arrangements for the transfer of information from the ministry to the Board. As introduced, clause 9 provides that any information required to be supplied to or obtained by the ministry under section 147A of the Act must be transferred to the Board as soon as practicable after the commencement date. We recommend amending clauses 9(2) and (3) to broaden this provision to include any information produced or generated by the ministry as part of its role under section 147A. Our amendment would mean that the ministry could provide any assessments, case notes, or other information to the Board.

For consistency with section 147A, we also recommend minor amendments to clause 9(4) and (5).

Other matter: length of interim suspension period

In considering the bill, we were particularly interested in the Board's use of interim suspensions. These are used to suspend a social worker when allegations have been made that raise concerns about public safety.

The current interim suspension period is a maximum of 10 working days per notice of suspension. Advisers noted that investigations may take substantially longer than this, so social workers may receive multiple notices as the suspension is repeatedly extended.

The bill as introduced (clause 10, amending section 57A of the Act) would change the interim suspension provision to allow the Board to determine the appropriate length of an extension to an interim suspension, following the initial suspension of ten working days. The bill provides that the length of the extension must be reasonable and necessary, and that it could be revoked at any time if the Board was satisfied that the suspension is no longer necessary.

Advisers told us that other options had been considered, including increasing the set period for notices of interim suspension or setting a maximum time frame within which the Board must revoke an interim suspension. The proposal in the bill as introduced was considered the most workable and least disruptive to the social worker under an interim suspension.

We understand that the Board intends to review the matter of interim suspension timeframes in its 2025 review of the Act. We look forward to seeing the results of this review.

Appendix

Committee process

The Social Workers Registration Amendment Bill was referred to the committee on 27 August 2024.

We called for submissions on the bill with a closing date of 6 October 2024. We received and considered submissions from five interested groups and individuals. We heard oral evidence from one submitter via videoconference.

Advice on the bill was provided by the Ministry of Social Development. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Joseph Mooney (Chairperson)

Paulo Garcia

Takutai Tarsh Kemp

Ricardo Menéndez March

Laura McClure

Hon Willow-Jean Prime

Maureen Pugh

Hon Carmel Sepuloni

Tanya Unkovich

Mariameno Kapa-Kingi participated in our consideration of this bill.

Related resources

The documents we received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Louise Upston

Social Workers Registration Amendment Bill

Government Bill

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Schedule 1

New Part 2 inserted into Schedule 1AA

Schedule 2

Consequential amendments

Schedule 3

Updating gender references

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Social Workers Registration Amendment Act **2024**.

2 Commencement

- (1) **Sections 18 and 19** come into force on **1 July 2025**. 5
- (2) The rest of this Act comes into force on the day after Royal assent.

3 Principal Act

This Act amends the Social Workers Registration Act 2003.

Part 1

Substantive amendments

4 Section 3 amended (Purpose)

In section 3(b)(ii), replace “consider complaints about social workers” with “exercise the disciplinary powers over social workers conferred by this Act”.

5 Section 6 amended (Entitlement of New Zealand-qualified applicants to registration within scope of practice)

In section 6(1)(c)(ii), replace “different” with “various”.

- 6 Section 13 amended (Board may recognise practical experience in certain cases)**
- (1) In section 13(1)(a), replace “recognised New Zealand qualification” with “prescribed qualification” in each place.
- (2) In section 13(2), replace “section 12” with “section 8F”. 5
- 7 Section 16 amended (Applications by certain people previously registered)**
In section 16(2), replace “sections 6, 7, and 12 to 15” with “sections 6, 7, 8F, and 13 to 15”.
- 8 Section 51 amended (Reporting of conditions affecting ability to practise as a social worker)** 10
In section 51(1D)(c), replace “allegation” with “matter”.
- 9 Section 55 amended (Power to order medical examination)**
In section 55(1), replace “submit himself or herself for examination” with “attend for medical examination”.
- 10 Section 57A amended (Interim suspension of registration or practising certificate or both or change to individual scope of practice)** 15
- (1) In section 57A(2)(c), after “underway”, insert “, or is reasonably contemplated,”.
- (2) Replace section 57A(4) with:
- (4) A direction under this section may be made— 20
- (a) for a period of not more than 10 working days from the date on which a copy of the direction is given to the social worker; and
- (b) for any further period or periods that are reasonable and necessary to allow the Board to satisfy itself of the matters referred to in section 58.
- 11 Section 58 amended (Revocation of suspension or change to individual scope of practice)** 25
- (1) In section 58(1), replace “may give the Registrar a direction to revoke a suspension imposed under section 57 or 57A if it is” with “must give the Registrar a direction to revoke a suspension imposed under section 57 or 57A as soon as practicable after the Board is”. 30
- (2) In section 58(2), replace “may give the Registrar a direction to revoke any change made to the individual scope of practice of the social worker under section 57 or 57A if it is” with “must give the Registrar a direction to revoke any change made to the individual scope of practice of the social worker under section 57 or 57A as soon as practicable after the Board is”. 35

- 12 Section 71 amended (Determination of complaint or notice of conviction by professional conduct committee)**
- (1) In section 71(1), replace “it must determine whether” with “the committee must make 1 or more of the following determinations”.
- (2) In section 71(2) and (3), replace “its” with “a” in each place. 5
- 13 Section 73 amended (Conciliation and mediation)**
- In section 73(2), replace “chairperson of the Tribunal” with “Board”.
- 14 Section 99 amended (Functions of Board)**
- Replace section 99(1)(f) with:
- (f) to prescribe New Zealand educational qualifications for the purposes of this Act and monitor the provision and delivery of those qualifications: 10
- 15 Section 101 amended (Obtaining views of ethnic and cultural groups)**
- In section 101(b), replace “other” with “various”.
- 16 Section 114 amended (Social Workers Complaints and Disciplinary Tribunal established)** 15
- (1) In the heading to section 114, delete “Complaints and”.
- (2) In section 114, delete “Complaints and”.
- 17 Section 116 replaced (Membership of Tribunal)**
- Replace section 116 with:
- 116 Membership of Tribunal** 20
- (1) The Tribunal comprises the following members appointed by the Minister:
- (a) a chairperson and 1 or more deputy chairpersons; and
- (b) at least 5 social workers to enable the Tribunal to be constituted; and
- (c) at least 1 layperson.
- (2) A person referred to in **subsection (1)(a)** must be a barrister or solicitor of the High Court of not less than 7 years’ practice, whether or not the person holds or has held judicial office. 25
- (3) A person referred to in **subsection (1)(b)** must not be a person whose registration or practising certificate is suspended.
- (4) A member of the Board is not eligible to be a member of the Tribunal. 30
- 18 Section 147A amended (Power to obtain information)**
- (1) In section 147A(1), replace “The chief executive may, if the chief executive” with “The Board may, if it”.

- (2) In section 147A(1)(a), (b), and (c), replace “department” with “Board” in each place.
- (3) In section 147A(3), replace “chief executive must first ask the person in writing” with “Board must first make a written request to the person to whom the information relates”.
- (4) Repeal section 147A(5).

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19 Section 147B amended (Privilege)

In section 147B(1) and (2), replace “department” with “Board” in each place.

Part 2**Other amendments**

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20 Schedule 1AA amended

- (1) In Schedule 1AA, clause 2(3), replace “section 12” with “section 8F”.
- (2) In Schedule 1AA,—
 - (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
 - (b) make all necessary consequential amendments.

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21 Schedule 1 amended

In Schedule 1, repeal clause 43.

22 Consequential amendments

Amend the principal Act as set out in **Schedule 2** of this Act.

23 Gender references updated

Amend the principal Act as set out in **Schedule 3** of this Act.

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Schedule 1

New Part 2 inserted into Schedule 1AA

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Part 2	
Provisions relating to Social Workers Registration Amendment Act 2024	5
7 Interpretation	
In this Part, amendment Act means the Social Workers Registration Amendment Act 2024 .	
8 Social worker subject to interim suspension or change to scope of practice before commencement date	10
(1) In this clause, commencement date means the date on which section 10 of the amendment Act comes into force.	
(2) This clause applies to a social worker who, immediately before the commencement date, was subject to an interim suspension of the social worker's registration or practising certificate (or both) or to a change to the social worker's individual scope of practice for 1 or both of the periods set out in section 57A(4) (as it read immediately before the commencement date).	15
(3) On and after the commencement date, the Board may make a further direction for any further period or periods if it considers that the direction is reasonable and necessary to allow further investigation or a medical examination to take place.	20
9 Transfer of specified information to Board	
(1) In this clause, commencement date means the date on which section 18 of the amendment Act comes into force.	25
(2) This clause applies to any information (specified information) that was—	
(a) required to be supplied to the chief executive under section 147A (as it read immediately before the commencement date); or	
(b) obtained by the chief executive under section 147A before the commencement date.	30
(3) As soon as practicable after the commencement date, the chief executive must transfer the specified information to the Board to enable the Board to carry out its functions under section 147A (as amended by the amendment Act).	
(2) Subclause (3) applies to any information, document, or copy of or extract from a document (specified information) that, before the commencement date, was—	35

- (a) given to the department by a person in accordance with a written notice issued by the chief executive under section 147A(1) or following a request by the chief executive under section 147A(3); or
- (b) voluntarily given to the department or the chief executive by a person for the purposes of section 147A; or 5
- (c) produced or generated by the department or chief executive for the purposes of section 147A.
- (3) On and after the commencement date, the specified information must be treated as if it were held by the Board.
- (4) **Subclause (5)** applies if, before the commencement date, the chief executive had asked a person in writing under section 147A(3) to ~~provide specified information to the chief executive~~ give information to the department before issuing a written notice to the person under section 147A(1). 10
- (5) On and after the commencement date, the Board may issue the written notice under section 147(1) to the person in respect of the information. 15
- 10 Delegate may determine outstanding matters relating to pending application for registration**
- (1) In this clause, **commencement date** means the date on which **section 21** of the amendment Act comes into force.
- (2) This clause applies to an application for registration as a social worker that was made before the commencement date but was not determined before that date. 20
- (3) On and after the commencement date, a person to whom the Board has delegated any of its functions, duties, and powers relating to registration may determine any outstanding matters relating to the application.

Schedule 2

Consequential amendments

s 22**Section 4**

In section 4, definition of **Tribunal**, delete “Complaints and”. 5

Section 7

In section 7(a)(ii) and (c)(ii), replace “different” with “various”.

Section 13

In section 13(1)(b)(iv)(B), replace “different” with “various”.

Part 6 heading

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In the Part 6 heading, delete “**Complaints and**”.

Cross-heading above section 114

In the cross-heading above section 114, delete “*Complaints and*”.

Section 117

In section 117(c)(ii), replace “different” with “various”. 15

Section 119

In section 119(1)(b), delete “5”.

Section 133

In section 133(1)(a), replace “recognised” with “prescribed”.

Schedule 1

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In Schedule 1, clause 2(2)(b)(v), replace “different” with “various”.

Schedule 2

In the Schedule 2 heading, delete “**Complaints and**”.

Schedule 3

Updating gender references

s 23

Section 6

In section 6(1)(a), replace “his or her” with “the person’s”. 5

In section 6(1)(b), replace “he or she” with “the person”.

In section 6(1)(c), replace—

(a) “his or her” with “the person’s”; and

(b) “he or she” with “the person”.

In section 6(1)(d), replace “he or she” with “the person”. 10

Section 7

In section 7(a), replace “he or she” with “the person”.

In section 7(b)(i), replace “he or she” with “the person”.

In section 7(b)(ii), replace “his or her” with “the person”.

In section 7(c), replace “he or she” with “the person” in each place. 15

In section 7(d), replace “he or she” with “the person”.

In section 7(e), replace “he or she” with “the person”.

In section 7(f), replace “his or her” with “the person’s”.

In section 7(g), replace “he or she” with “the person”.

In section 7(h), replace “he or she” with “the person”. 20

Section 13

In section 13(1)(a), replace “he or she” with “the applicant”.

In section 13(1)(b)(i) and (ii), replace “his or her” with “the applicant’s”.

In section 13(1)(b)(iii), replace “he or she” with “the applicant”.

In section 13(1)(b)(iv), replace— 25

(a) “his or her ”with “the applicant’s” in each place; and

(b) “he or she” with “the applicant”.

Section 15

In section 15, replace “he or she” with “the applicant”.

Section 16 30

In section 16(1), replace “he or she” with “the person”.

Section 21

In section 21(1) and (2), replace “he or she” with “the social worker”.

Section 21—*continued*

In section 21(2)(a), replace “him or her notice that his or her” with “the social worker notice that the social worker’s”.

In section 21(2)(b), replace “him or her” with “the social worker”.

In section 21(2)(b)(i), replace “his or her” with “the social worker’s”.

Section 23

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In section 23(1)(a), replace “he or she” with “the applicant”.

Section 27

In section 27(1)(b), replace “he or she” with “the Registrar”.

In section 27(2), replace “him or her” with “the applicant”.

In section 27(3)(a), replace “he or she” with “the applicant”.

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In section 27(3)(c)(i), replace “he or she refuses” with “the Registrar”.

Section 30

In section 30(1), replace “he or she” with “the Registrar”.

Section 32

In section 32(5), replace “his or her” with “the person’s” in each place.

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In section 32(6), replace—

(a) “his or her” with “the person’s” in each place; and

(b) “he or she” with “the person”.

Section 36

In section 36(2), replace—

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(a) “he or she” with “the holder”; and

(b) “his or her” with “the holder’s”.

Section 38

In section 38(1)(a), replace “they have” with “the person has”.

In section 38(1)(b), replace “he or she” with “the person”.

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In section 38(1)(b)(i), replace “his or her” with “the person’s”.

In section 38(3), replace “his or her” with “the person’s”.

Section 39

In section 39(2), replace “his or her” with “the social worker’s”.

Section 40

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In section 40(1)(a)(i) and (ii), replace “his or her” with “the social worker’s”.

Section 40—continued

In section 40(1)(a)(iii), replace “he or she” with “the social worker”.

In section 40(1)(b), replace “him or her” with “the social worker”.

In section 40(3), replace “his or her” with “the social worker’s” in each place.

In section 40(4), replace—

- (a) “his or her” with “the social worker’s” in each place; and 5
- (b) “he or she is” with “the social worker”.

Section 41

In section 41(1), replace “he or she” with “the social worker”.

Section 45

In section 45(2)(b)(ii), replace “he or she” with “the social worker”. 10

In section 45(7) and (8), replace “his or her” with “the person’s” in each place.

In section 45(8), replace “he or she” with “the person”.

Section 47

In section 47(3), replace “he or she” with “the applicant”.

In section 47(3)(a)(i), (ii), and (iii), replace “him or her” with “the applicant”. 15

In section 47(3)(b), replace “he or she” with “the applicant”.

Section 48

In section 48(b), replace “his or her” with “the person’s”.

Section 49

In section 49(1), replace “his or her” with “the social worker’s”. 20

In section 49(1)(a), replace “he or she” with “the social worker”.

In section 49(1)(b), replace “he or she” with “the social worker”.

In section 49(3)(a)(ii), replace “he or she” with “the social worker”.

In section 49(8), replace “his or her” with “the person’s” in each place.

In section 49(9),— 25

- (a) replace “his or her” with “the person’s” in each place; and
- (b) replace “he or she” with “the person”.

Section 52

In section 52(1), replace “he or she thinks appropriate to help him or her” with “the person thinks appropriate to help the person”. 30

Section 53

In section 53(a), replace “he or she” with “the Registrar”.

Section 55

In section 55(1), replace “him or her written notice requiring him or her to” with “the social worker written notice requiring them to”. 5

Section 56

In section 56(2)(a), replace “chosen by him or her” with “of the social worker’s choice”.

In section 56(2)(b), replace “him or her attends, is entitled to be accompanied by 1 person of his or her” with “the social worker attends, is entitled to be accompanied by 1 person of the social worker’s”. 10

In section 56(3), replace “his or her” with “the social worker’s”.

Section 57

In section 57(1)(a)(i), replace “submitted himself or herself” with “attended”.

In section 57(1)(a)(ii), replace “submit himself or herself” with “attend”. 15

In section 57(1)(b), replace “he or she” with “the social worker”.

In section 57(3)(b), replace “he or she did not submit himself or herself ” with “the social worker did not attend”.

In section 57(7), replace “his or her” with “the person’s” in each place.

In section 57(8), replace— 20

(a) “his or her” with “the person’s” in each place; and

(b) “he or she” with “the person”.

Section 71

In section 71(3)(a)(ii) and (b)(ii), replace “him or her” with “the social worker”.

In section 71(5), replace “his or her” with “the person’s” in each place. 25

In section 71(6), replace—

(a) “his or her” with “the person’s” in each place; and

(b) “he or she” with “the person”.

Section 76

In section 76(3), replace “he or she” with “the social worker”. 30

Section 79

In section 79(5), replace “he or she” with “the person”.

Section 80

In section 80(2)(a), replace “he or she” with “the witness”.

In section 80(3)(b) and (c), replace—

(a) “he or she” with “the witness”; and

(b) “his or her” with “the witness’s”.

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Section 82

In section 82(2), replace “he or she” with “the social worker”.

In section 82(2)(b), replace “himself or herself” with “themselves”.

In section 82(3) and (4), replace “he or she” with “the social worker”.

Section 83

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In section 83(1)(a)(ii), (b), (c), (d), and (e) and (4), replace “he or she” with “the social worker”.

In section 83(1)(ca), replace “they” with “the social worker”.

Section 84

In section 84(1)(a) and (b), replace “he or she” with “they” in each place.

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In section 84(4), replace “him or her” with “the person”.

Section 88

In section 88(1), replace—

(a) “him or her” with “the person”; and

(b) “he or she” with “the person”.

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In section 88(2), replace “him or her” with “the person”.

Section 89

In section 89, replace “him or her” with “the person” in each place.

Section 108

In section 108(1)(h), replace “him or her” with “the social worker”.

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Section 117

In section 117(a), replace “his or her” with “the person’s”.

Section 118

In section 118(1), replace “he or she” with “the person” in each place.

In section 118(2)(a), replace “his or her” with “the person’s”.

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Section 124

In section 124(a) and (b), replace “his or her” with “the person’s”.

Section 129

In section 129(1)(c), replace “him or her” with “the social worker”.

Section 130

In section 130(1), replace “him or her” with “the person”.

Section 131

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In section 131(1), replace “he or she” with “the social worker”.

In section 131(4), replace “his or her” with “the person’s” in each place.

In section 131(5), replace—

(a) “his or her” with “the person’s” in each place; and

(b) “he or she” with “the person”.

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In section 131(7)(b), replace “he or she” with “the social worker”.

Section 132

In section 132(1), replace—

(a) “him or her” with “the social worker”; and

(b) “he or she” with “the social worker”.

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Section 133

In section 133(1)(a), replace “him or her” with “the social worker”.

In section 133(1)(b)(i), (ii), and (iii), replace “his or her” with “the social worker’s” in each place.

In section 133(2)(a), replace “him or her” with “the social worker”.

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In section 133(3) and (4), replace “his or her” with “the person’s” in each place.

In section 133(4), replace “he or she” with “the person”.

Section 139

In section 139(1), replace “him or her” with “the person” in each place.

Section 143

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In section 143, replace “he or she” with “the member or adviser”.

Section 145

In section 145(3), replace “him or her” with “the person”.

In section 145(4), replace “his or her” with “the person’s”.

Section 148

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In section 148(1), replace “himself or herself” with “the person”.

In section 148(1)(a) and (b), replace “his or her” with “the person’s”.

Section 148—*continued*

In section 148(5)(a), replace “himself or herself” with “themselves”.
In section 148(5)(a)(i), replace “he or she” with “the social worker”.
In section 148(5)(a)(ii), replace “his or her” with “the social worker’s”.

Schedule 1

In Schedule 1, clause 7(2), replace “his or her” with “the member’s”. 5
In Schedule 1, clause 10(2), (3), and (4), replace “he or she” with “the member”.
In Schedule 1, clause 20(1), replace “him or her” with “the appointing member”.
In Schedule 1, clause 20(4), replace—
(a) “him or her” with “the representative”; and
(b) “his or her” with “the representative’s”. 10
In Schedule 1, clause 20(5)(a), replace “his or her” with “the representative’s”.

Schedule 2

In Schedule 2, clause 2(3), replace “his or her” with “the person’s”.
In Schedule 2, clause 3(2), replace “he or she” with “the chairperson or deputy chairperson”. 15
In Schedule 2, clause 3(3), replace “him or her” with “the chairperson or deputy chairperson”.
In Schedule 2, clause 3(3)(a), replace “he or she is unable to perform his or her” with “the person is unable to perform the person’s”.
In Schedule 2, clause 7(1)(b) and (c)(ii), replace “his or her” with “the person’s” in 20 each place.
In Schedule 2, clause 12(5), replace “him or her” with “the person”.
In Schedule 2, clause 15, replace “his or her” with “the social worker’s” in each place.

Legislative history

24 June 2024	Introduction (Bill 63–1)
27 August 2024	First reading and referral to Social Services and Community Committee