

Namibia

National Welfare Act, 1965

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Republic of Namibia
Annotated Statutes

National Welfare Act, 1965

Act 79 of 1965

Published in [South African Government Gazette no. 1163](#) on 30 June 1965

Assented to on 18 June 1965

Commenced on 1 July 1971

[Up to date as at 10 September 2021]

[Amended by [General Law Amendment Act, 1967 \(Act 102 of 1967\)](#) on 21 June 1967]

[Amended by [National Welfare Amendment Act, 1971 \(Act 13 of 1971\)](#) on 1 July 1971]

[Amended by [National Welfare Amendment Act, 1976 \(Act 44 of 1976\)](#) on 7 April 1976]

[Amended by [National Welfare Amendment Act, 1979 \(Act 12 of 1979\)](#) on 1 September 1979]

[Amended by [National Welfare Amendment Act, 1993 \(Act 9 of 1993\)](#) on 1 July 1994]

[Amended by [National Welfare Amendment Act, 1994 \(Act 20 of 1994\)](#) on 29 September 1994]

[APPLICABILITY TO SOUTH WEST AFRICA: Section 43A, which was inserted by Act [13 of 1971](#) and repealed by Act [9 of 1993](#), stated “This Act and any amendment thereof shall apply also in the territory, including the Eastern Caprivi Zipfel.”]

[TRANSFER TO SOUTH WEST AFRICA: The administration of this Act was transferred to South West Africa by the Executive Powers (Social Welfare and Pensions) Transfer Proclamation, AG 11 of 1977, dated 30 November 1977. None of the amendments to the Act in South Africa after the date of transfer were applicable to South West Africa because none were made expressly so applicable. In South Africa, the portions of the Act relating to the National Welfare Board and to welfare organisations were repealed by the National Welfare Act [100 of 1978](#) (RSA GG 6094). The portions of the Act relating to social workers were repealed by the Social and Associated Workers Act [110 of 1978](#) (RSA GG 6102). The remainder of the Act was repealed by the Pension Laws Amendment Act [81 of 1982](#) (RSA GG 8239). None of the repealing acts were made expressly applicable to South West Africa.]

[Section 3(2) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, excluded from transfer the provisions of any transferred law “which provide for or relate to the institution, constitution or control of any juristic person or any board or other body of persons that may exercise powers or perform other functions in or in respect of both the territory and the Republic”. This may have at some stage have excluded from transfer the provisions

of this Act relating to the National Welfare Board, and perhaps also the provisions relating to commissions and committees established under this Act.]

ACT

To establish a National Welfare Board of Namibia; and to provide for the establishment of certain commissions and welfare committees and to define their functions, and to provide for the registration and control of certain welfare organizations, for the control of the collection of contributions towards the funds of such organizations and of certain institutions and of the collection of funds in certain circumstances otherwise than by registered welfare organizations for particular purpose; and for incidental matters.

[long title substituted by Act 12 of 1979 and amended by Act 9 of 1993]

(Afrikaans, text signed by the State President)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

[Act 12 of 1979 makes the following substitutions throughout the Act and the regulations made in terms of the Act:

- (a) "Administrator-General" for "Minister";*
- (b) "welfare committees" for "regional welfare board"; and*
- (c) "Official Gazette" for "Gazette", except in section 44.*

Section 25(b) of Act 12 of 1979 directs "the substitution for the words 'regional welfare board', wherever they occur, of the words 'welfare committees'". This has been interpreted to include the substitution of singular for singular ("welfare committee" for "regional welfare board") and plural for plural ("welfare committees" for "regional welfare boards").

Act 9 of 1993 makes the following substitutions throughout the Act:

- (a) "Minister" for "Administrator-General";*
- (b) "Director of Social Services" for "chief social welfare officer";*
- (c) "Ministry of Health and Social Services" for "Department of Social Welfare and Pensions";*
- (d) "Namibia" for "the Republic";*
- (e) "Permanent Secretary" for "Secretary"; and*
- (f) "Namibia" for "the territory".]*

1. Definitions

In this Act, unless the context otherwise indicates -

"board" means the National Welfare Board of Namibia established by section 2;

[definition of "board" substituted by Act 12 of 1979 and amended by Act 9 of 1993]

[definition of "chief social welfare officer" substituted by Act 12 of 1979 and deleted by Act 9 of 1993]

"collect", in relation to contributions, means collect, accept or solicit money or goods from any member of the public, whether or not such collection, acceptance or solicitation involves or envisages the receipt by the contributor of any material or other return or advantage as a consideration for the money or goods contributed or to be contributed by him;

"Director of Social Services" means the officer in charge of the Directorate of Social Services of the Ministry of Health and Social Services, or any person acting in his or her stead;

[The definition of "Director of Social Services" is inserted by Act 9 of 1993, as directed by that Act, but it does not appear in the correct alphabetical order and should be placed after "contributor". The definition is also amended by Act 20 of 1994, but not all of the changes are indicated by amendment markings.]

"commission" means a commission established under section seven;

"contributor", in relation to the collection of contributions, means a person from whom contributions are

collected;

[The definition of "Director of Social Services" should be placed here.]

"local authority" means any local authority council as defined in section 1 of the Local Authorities Act, 1992 (Act 23 of 1992);

[definition of "local authority" substituted by Act 12 of 1979 and by Act 9 of 1993]

"managing committee", in relation to a welfare organization, means a managing committee referred to in subsection (1) of section twenty-six;

"Minister" means the Minister of Health and Social Services;

[definition of "Minister" deleted by Act 12 of 1979 and inserted by Act 9 of 1993]

"Permanent Secretary" means the Permanent Secretary: Health and Social Services.

[The definition of "Permanent Secretary" is inserted by Act 9 of 1993. It should be followed by a semicolon rather than a full stop.]

"prescribed" means prescribed by regulation made under this Act;

[definition of "regional welfare board" deleted by Act 12 of 1979]

"registrar" means the Registrar of the National Welfare Board of Namibia appointed under section 6;

[definition of "registrar" amended by Act 12 of 1979 and by Act 9 of 1993]

"regulation" means a regulation made or in force under this Act;

[definition of "Republic" inserted by Act 13 of 1971 and deleted by Act 9 of 1993]

[definition of "Secretary or other senior officer" deleted by Act 9 of 1993]

"social work" means one or more of the following activities, namely -

- (a) individual treatment as a means or form of social assistance;
- (b) group work as a means or form of social assistance;
- (c) community organization for the promotion of social assistance;
- (d) the administration of any or all of the activities referred to in paragraph (a) or (b);
- (e) research in connection with any or all of the activities referred to in paragraph (a), (b), (c) or (d); and
- (f) vocational training for the performance of any or all of the activities referred to in paragraph (a), (b), (c), (d) or (e);

"social worker" means any person registered as a social worker under any law governing the registration of persons for the profession of social work;

[definition of "social worker" substituted by Act 9 of 1993]

[definition of "the territory" inserted by Act 13 of 1971 and deleted by Act 9 of 1993]

"this Act" includes the regulations;

"war fund" means a fund the objects of which are confined to one or more of the following, namely -

- (a) the provision of gifts or other benefits for the members or ex-members or the dependants of members or ex-members of the land, sea or air forces of Namibia or of a country at war with any country with which Namibia is at war or for the members or ex-members or the dependants of members or ex-members of the mercantile marine of Namibia or of such a country;
- (b) the relief of suffering or distress brought about by war, among the civilian population of Namibia or of a

- country at war with any country with which Namibia is at war;
- (c) the provision of gifts or other benefits for prisoners of war or their dependants;
 - (d) the promotion of the effective prosecution of war by Namibia or any country referred to in paragraph (a);
 - (e) the promotion of any object similar to or connected with any of the objects mentioned in the preceding paragraphs;

“**welfare committee**” means any welfare committee established under section 10;

[definition of “welfare committee” inserted by Act 12 of 1979]

“**welfare organization**” means any association of persons, corporate or unincorporate, or institution the objects of which include one or more of the following, namely -

- (a) the carrying on of social work by individual treatment, group work or community organization;
- (b) the provision wholly or in part of any of the material, spiritual or social requirements of persons or families in distress and in need of assistance;
- (c) the carrying on of charitable activities in relation to persons or families who are in need and require assistance;
- (d) the prevention of social distress and indigency of persons or families;
- (e) the rendering of legal assistance and advice as a form of social assistance;
- (f) the collection of contributions towards any war fund;
- (g) the prevention of cruelty to animals and the promotion of animal welfare;
- (h) the collection of funds for any of the objects specified in the preceding paragraphs,

but does not include any institution maintained and controlled by the State or a local authority or any hospital board or any trade union registered or deemed to be registered in accordance with the provisions of the Labour Act, 1992 (Act 6 of 1992), or any religious body in respect of activities confined to religious work.

[definition of “welfare organization” amended by Act 13 of 1971, Act 12 of 1979 and Act 9 of 1993]

2. National Welfare Board of Namibia

- (1) The board which immediately before the commencement of the National Welfare Amendment Act, 1993, existed under the name National Welfare Board of South West Africa shall, as from the commencement of the said Act, continue to exist under the name National Welfare Board of Namibia.
- (2) The board shall consist of the following members to be appointed by the Minister, namely -
 - (a) one member from every welfare committee;
 - (b) one member who shall be a professional officer of the Ministry of Health and Social Services; and
 - (c) five other members.
- (3) One of the members of the board shall be designated by the Minister to be the chairperson of the board and one of such members shall be elected as deputy chairperson by the board.

[section 2 amended by Act 12 of 1979 and by Act 9 of 1993]

3. Calling of, quorum for and procedure at meetings of board

- (1) The board shall meet at least twice in every year at such times and places as may be approved by the Minister after consultation with the chairman of the board.
- (2) The quorum for and procedure at meetings of the board shall be as prescribed.

- (3) The chairperson or, in his or her absence, the deputy chairperson of the board shall preside at all meetings of the board, and whenever both the chairperson and the deputy chairperson are absent from any meeting, the members present shall elect one of their number to preside thereat.

[subsection (3) amended by Act 9 of 1993]

4. Functions of board

- (1) The functions of the board shall be -
- (a) to advise the Minister in regard to matters affecting social care or arising out of the operation of this Act;
 - (b) to keep in touch and consult with the Ministry of Health and Social Services in regard to welfare matters arising out of the operation of this Act or affecting the interests of registered welfare organizations;
 - (c) to afford guidance to and exercise control over the activities of commissions and welfare committees;
- [paragraph (c) amended by Act 12 of 1979]*
- (d) to regulate the registration of welfare organizations;
 - (e) *[paragraph (e) deleted by Act 9 of 1993]*
 - (f) to promote and encourage co-ordination of the activities of registered welfare organizations;
 - (g) to provide information and guidance in connection with matters relating to social care.
- (2) The board shall devote attention to social problems and any research undertaken in connection therewith, and may from time to time with the approval of the Minister convene conferences in connection with any such problem or any matter referred to in paragraph (c) or (f) of sub-section (1) as it may deem fit.
- (3) The board may in its discretion, and shall if the Minister so directs, and on such conditions and subject to such limitations as it may deem fit, or as may, in the case of a delegation in pursuance of a direction by the Minister, be determined by him, delegate any of its functions -
- (a) to any welfare committee; and
 - (b) in the case of functions relating to any matter in respect of which a commission has been established, to that commission,

and may at any time withdraw or amend any such delegation as it may deem fit: Provided that no delegation made on the direction of the Minister shall be withdrawn or amended except with the approval of the Minister.

[subsection (3) substituted by Act 12 of 1979]

- (4) The board shall delegate to the social work commission all the functions entrusted to it under sections thirty-three, thirty-four, thirty-five and thirty-six, and any function performed by the said commission in pursuance of such delegation, shall, for the purposes of this Act, be deemed to have been performed by the board.

5. Reports to be furnished by board

- (1) The board shall, at least twice before the termination of its period of office and at such other times as it may be required to do so by the Minister, submit to the Minister a report in regard to the operation of this Act, and the performance of the functions of the board and the commissions.
- (2) Every report furnished to the Minister under this section shall be laid upon the table in the National Assembly as soon as possible after receipt thereof.

[subsection (2) substituted by Act 12 of 1979 and amended by Act 9 of 1993]

6. Appointment of registrar of board

- (1) The Permanent Secretary shall appoint an officer in the public service as Registrar of the National Welfare Board of Namibia, who shall also perform the secretarial work of the board.

[subsection (1) amended by Act 12 of 1979 and by Act 9 of 1993]

- (2) The registrar shall perform his functions under the supervision and guidance of the board and shall, subject to the approval of the Permanent Secretary, perform such duties as the board may from time to time assign to him in order to give effect to the provisions of this Act.

7. Establishment of commissions for specified matters

- (1) The Minister shall appoint -

- (a) a welfare organizations commission; and
- (b) a social welfare commission,

and such other commissions as he may deem fit to perform the functions assigned to a commission under this Act.

[subsection (1) substituted by Act 12 of 1979]

- (2) (a) Such a commission shall consist of five ordinary and two additional members to be appointed by the Minister.
- (b) Of the ordinary members -
 - (i) at least one shall be a member of the board;
 - (ii) at least three shall be social workers, of whom at least two shall be engaged in social work.

[paragraph (b) substituted by Act 12 of 1979 and amended by Act 9 of 1993]

- (3) The additional members shall be the chairperson of the board or any other member of the board designated by him or her, and an officer in the public service designated by the Permanent Secretary.

[subsection (3) amended by Act 9 of 1993]

- (4) An additional member of a commission shall have the same rights as an ordinary member but shall not be capable of being designated as chairperson of the commission.

[subsection (4) amended by Act 9 of 1993]

- (5) The Minister shall designate one of the members of a commission, who is also a member of the board, as chairperson of the commission: Provided that no person shall be designated as chairperson of the social welfare commission unless he or she is registered as a social worker.

[subsection (5) amended by Act 12 of 1979 and by Act 9 of 1993]

8. Calling of, quorum for and procedure at meetings of commissions

- (1) The meetings of a commission shall be held at such times and places as may be determined in accordance with the regulations.
- (2) The quorum for and procedure at any such meeting shall be as prescribed.
- (3) Whenever the chairperson of a commission is absent from any meeting, the members present shall elect another member of the commission to preside thereat.

[subsection (3) amended by Act 9 of 1993]

9. Functions of commissions

- (1) A commission shall advise the board in connection with any matter which may be referred to it by the board or in regard to which it considers it necessary to advise the board, and shall perform such other functions as may be delegated to it by the board.
- (2) A commission shall report to the board annually in regard to its activities.

10. Establishment of welfare committees

- (1) The Minister may establish as many welfare committees as he or she may deem necessary, to represent such persons or categories of persons or communities or areas in Namibia as he or she may determine.
- (2) A welfare committee shall consist of not more than seven members appointed by the Minister.
- (3) The chairperson of a welfare committee shall be elected by that committee from among its members.

[section 10 substituted by Act 12 of 1979 and amended by Act 9 of 1993]

11. Calling of, quorum for and procedure at meetings of welfare committees

- (1) A welfare committee shall meet at such times and places as may be determined in accordance with the regulations.
- (2) The quorum for and procedure at meetings of such a board shall be as prescribed.
- (3) The chairperson of welfare committee shall preside at all meetings at which he or she is present, and in his or her absence from a meeting the members present shall elect one of their number to preside thereat.

[subsection (3) amended by Act 9 of 1993]

12. Functions of welfare committee

- (1) The functions of a welfare committee shall be, in relation to the population group for which it has been established -
 - (a) to exercise the powers and perform the duties which may be delegated to it by the board or which are required to be exercised or performed under this Act;
 - (b) to make recommendations to the board or a commission in regard to matters which the board or such commission may refer to it or in regard to which it may consider it necessary to make recommendations;
 - (c) to advise the board or a commission in connection with -
 - (i) family life and welfare planning; and
 - (ii) all matters relating to social welfare;
 - (d) to promote the planning and co-operation of social welfare services; and
 - (e) to provide guidance and information to welfare organizations.

[subsection (1) substituted by Act 12 of 1979]

- (2) A welfare committee may with the approval of the Permanent Secretary arrange discussions and conferences in connection with matters falling within its functions, and shall report annually to the board in regard to its activities.
- (3) (a) A welfare committee may appoint an executive committee consisting of the chairman of the welfare

committee concerned and two other members of such committee, and may in respect of each of such other members designate a member of such committee as an alternate member.

[paragraph (a) substituted by Act 12 of 1979]

- (b) Any such executive committee shall perform such functions as may be assigned to it by the welfare committee.
- (4) The secretarial staff of a welfare committee shall be appointed by the Permanent Secretary.

13. Period of office of members of board, commissions and welfare committees

- (1) A member of the board or of a commission or welfare committee shall hold office for a period of five years subject to such conditions as may be determined by the Minister at the time of the appointment of such member.
- (1A) *[subsection (1A) inserted by Act 44 of 1976 and deleted by Act 12 of 1979]*
- (2) If a member of the board or of a commission or a welfare committee dies or vacates his office before the termination of the period for which he has been appointed, the Minister shall with due regard to the provisions of this Act fill the vacancy by the appointment of some other person, who shall hold office for the unexpired portion of the period for which his predecessor was appointed.
- (3) A member of the board or a commission or welfare committee whose period of office has expired shall be eligible for reappointment.

14. Allowances to members and payment of expenditure incurred by board, commission and welfare committees

- (1) There may be paid to a member of the board or a commission or a welfare committee who is not in the full-time service of the State, while he or she is engaged on work connected with the business of the board or such commission or welfare committee, such fees and travelling and subsistence allowances as may be determined by the Minister in consultation with the Minister of Finance.
- (2) The expenditure incurred by the board or a commission or welfare committee in the performance of its functions shall be paid by the Minister in consultation with the Minister of Finance out of moneys appropriated by law for that purpose.

[section 14 amended by Act 12 of 1979 and substituted by Act 9 of 1993]

15. ***

[section 15 amended by Act 44 of 1976 and deleted by Act 12 of 1979]

16. Certain welfare organizations to be registered

- (1) No welfare organization shall, after the commencement of this Act
 - (a) if its funds are derived wholly or partly from the State or from a local authority or from contributions collected from the public, continue to carry on its activities; or
 - (b) receive financial assistance from the State or from a local authority; or
 - (c) collect contributions from the public,

unless such organization is registered or deemed to be registered under this Act in respect of the particular object or objects in furtherance of which it is being conducted and such organization is in addition specially authorized, in terms of the certificate of registration issued to it under section 19(4), to collect contributions in Namibia.

[Subsection (1) is substituted by Act 13 of 1971 and amended by Act 12 of 1979. The amendment requires the deletion of two commas even though this is not indicated in the amending Act.]

(2) *[subsection (2) deleted by Act 12 of 1979]*

(2A) Any organization which immediately prior to the commencement of the National Welfare Amendment Act, 1971, was registered as a welfare organization under the Welfare Organisations Ordinance, 1965 (Ordinance No. 33 of 1965), of Namibia, shall be deemed to be a welfare organization registered under this Act, and no welfare organization which immediately prior to such commencement was not so registered or was not under section 7 or 8 of the said Ordinance authorized to collect contributions in Namibia, shall collect contributions in Namibia, unless it has been specially authorized under section 19 to collect contributions in Namibia.

[subsection (2A) inserted by Act 13 of 1971]

(3) Any person who in any manner whatsoever takes part in the management or control of a welfare organization which contravenes or fails to comply with the provisions of subsection (1) or (2A) shall be guilty of an offence.

[subsection (3) substituted by Act 13 of 1971]

17. Exemption of welfare organization from provisions of Act

- (1) The board may, on application made in the prescribed manner by a registered welfare organization, grant to such organization a certificate exempting it for a stated period, and subject to such conditions as may be prescribed, from the operation of any of the provisions of this Act other than section sixteen.
- (2) The board may at any time, provided it has complied with the provisions mutatis mutandis of sub-section (3) of section twenty-one, withdraw or amend any certificate of exemption granted under sub-section (1).
- (3) The provisions of sub-section (5) of section twenty-one shall mutatis mutandis apply to persons charged with the management and control of a welfare organization which has been exempted from any of the provisions of this Act, in relation to a certificate of exemption granted in respect of that organization.

18. Temporary authority to collect contributions

- (1) Notwithstanding anything to the contrary contained in this Act, an officer in the public service designated for the purpose by the Minister may, after consultation with the chairperson of the board, if he or she is readily available, grant written authority -
 - (a) to any person or group of persons; or
 - (b) to any welfare organization not registered under section nineteen,

to collect contributions for any object mentioned in the definition of "welfare organization" in section one, if the said officer is satisfied that the circumstances giving rise to the proposed collection of contributions are merely of a transitory nature and that the delay likely to occur in connection with the registration of a welfare organization for the purpose of making such collection will probably lead to the frustration or partial frustration of the objects for which such contributions are to be collected.

[Subsection (1) is amended by Act 12 of 1979, requiring the deletion of a comma even though this is not indicated in the amending Act, and by Act 9 of 1993.]

- (2) An authority under sub-section (1) shall be granted
 - (a) with due regard to the directions of the Minister;
 - (b) for a period stated in the authority but not exceeding ninety days: Provided that such period may thereafter be extended for a further period not exceeding ninety days;
 - (c) subject to the prescribed conditions and such other conditions as the officer concerned may impose.

- (3) (a) The officer may, after consultation with the chairperson of the board, withdraw any authority granted under this section, if after enquiry (during which the person or group of persons or welfare organization concerned shall be entitled to be heard as provided in paragraph (b) of this sub-section) he or she is of the opinion that any of the conditions referred to in paragraph (c) of sub-section (2) have not been observed or that a material irregularity has been or is being committed in connection with the authority.

[paragraph (a) amended by Act 12 of 1979 and by Act 9 of 1993]

- (b) The person or group of persons or welfare organization contemplated in paragraph (a), shall be given at least fourteen days' prior written notice of the enquiry referred to in that paragraph, and shall be heard either orally or by way of written representations as in the opinion of the said officer may in the circumstances of the case be adequate.
- (4) The officer referred to in subsection (1) shall without delay advise the board of the grant or withdrawal and, in the case of a withdrawal also of the reasons for such withdrawal, of any authority referred to in this section.

[subsection (4) substituted by Act 12 of 1979]

- (5) The board may, after the object for which an authority was granted has been achieved, in its discretion dispose of any surplus money, securities or other property obtained under such authority.
- (6) If an authority is withdrawn under sub-section (3) or (7), the Minister may deal in accordance with section thirty-one with any money, securities or other property obtained under such authority.
- (7) (a) Notwithstanding the provisions of this section, any authority granted thereunder shall, subject to the maximum period permissible under paragraph (b) of sub-section (2), be in force during the Minister's pleasure, and the Minister may at any time on any ground direct the officer referred to in sub-section (1) to withdraw such an authority.
- (b) If the Minister directs under paragraph (a) that an authority be withdrawn, the provisions of sub-section (3) shall not apply with reference to such withdrawal.

18A. Authority to collect contributions in Namibia in special circumstances

Notwithstanding anything to the contrary in this Act contained, a welfare organization which is registered or deemed to be registered under this Act and which is precluded by the provisions thereof from collecting contributions in Namibia, may collect contributions in Namibia during the period specified in a certificate issued to it by an officer referred to in section 18 after he has satisfied himself that such organization renders or will render a real service to Namibia and its people.

[section 18A inserted by Act 13 of 1971]

19. Procedure in connection with application for registration of welfare organization

- (1) (a) A welfare organization which is required to be registered under this Act, shall, in the prescribed manner, through the person or persons having the management and control thereof, lodge an application for such registration with the board.

[paragraph (a) amended by Act 12 of 1979]

- (b) The board shall, after the requirements prescribed in subsection (2) have been complied with, cause any such application to be investigated by the chief social welfare officer.

[paragraph (b) substituted by Act 12 of 1979]

- (2) (a) A welfare organization which lodges an application for registration under sub-section (1) shall in the prescribed manner cause to be published a notice, setting out the objects of that welfare organization, to the effect that such an application has been lodged, and shall submit proof that such a notice has been published in the prescribed manner.

- (b) Any person or group of persons may within the prescribed period lodge with the board an objection setting out the grounds on which objection is made to the grant of the application.

[paragraph (b) amended by Act 12 of 1979]

- (3) The board may require any welfare organization which has applied for registration in terms of sub-section (1) to furnish such further information in connection with the application as it may consider necessary.

[subsection (3) amended by Act 12 of 1979]

- (4) On consideration of any such application, and of any objections which may have been lodged against the grant thereof and any further information furnished under sub-section (3), the board may -
- (a) grant the application and issue to the managing committee of the organization concerned a certificate of registration in respect of the organization in the prescribed form and subject to any of the prescribed conditions as the board may deem necessary; or
- (b) reject the application if it appears to the board -
- (i) that the organization is not bona fide operating in furtherance of the objects mentioned in its application for registration; or
- (ii) that the organization has adopted a name which is likely to mislead the public; or
- (iii) that the organization does not as regards its constitution or management comply with the provisions of this Act; or
- (iv) that the objects and area of operation of the organization as stated in its application are substantially the same as the objects and area of operation of any welfare organization already registered which is functioning effectively; or
- (v) that the objects of the organization, in so far as it is a welfare organization, are ancillary or incidental to its other objects; or
- (c) grant the application in respect of one or more of the objects of the organization and reject it on any ground mentioned in paragraph (b) in respect of the remaining objects and grant to the managing committee a certificate of registration in respect of the organization mutatis mutandis in accordance with the provisions of paragraph (a):

Provided that the board may before granting an application require the removal from the constitution of the organization concerned of the objects in respect of which the application has been rejected.

- (5) (a) The board shall not grant an application by a welfare organization to be registered in respect of an object mentioned in paragraph (e) of the definition of "welfare organization" in section 1, save with the consent of The Law Society of Namibia, and subject to such conditions (in addition to any conditions which the board is by paragraph (a) of subsection (4) empowered to impose) as the said Law Society may determine.

[paragraph (a) substituted by Act 13 of 1971, and amended by Act 12 of 1979 and by Act 9 of 1993]

- (b) Where an objection has been lodged to the grant of an application by a welfare organization, the board shall not grant the application without the consent of the Minister.
- (6) If the board rejects an application for registration wholly or in part, it shall, when informing the organization concerned of the rejection, also advise it of the grounds on which the rejection is based.
- (7) The registration of an organization under this section and the objects in respect of which it has been registered, and the rejection of an application for such registration, shall be notified in the Official Gazette.

20. Validity of registration certificate

A certificate of registration granted under section nineteen shall remain in force so long as it has not been cancelled or substituted in terms of section twenty-one or surrendered in terms of section twenty-three.

21. Cancellation or amendment of registration certificate

- (1) The board may, after a report has been obtained from the Director of Social Services and, in the case of a welfare organization referred to in paragraph (a) of subsection (5) of section 19, after consultation with the Law Society of Namibia, cancel the registration certificate of a welfare organization -

[introductory phrase substituted by Act 12 of 1979 and amended by Act 9 of 1993]

- (a) on any ground on which an application for registration could have been rejected;
 - (b) on the ground that remuneration or reward which in the opinion of the board is excessive in relation to the total value of the contributions received by the organization, has been or is being retained or received by any person;
 - (c) if the organization has failed to comply with a condition of registration;
 - (d) if the organization has not functioned for a continuous period of two years;
 - (e) if the organization has (except where a certificate of exemption has been granted to it under section seventeen) failed to submit to the board the prescribed returns within a period of twelve months after the close of its financial year as determined by its constitution, or, where its financial year has been changed, after the termination of the period between the close of its previous financial year and the commencement of its new financial year; or
 - (f) if the organization has collected contributions from the public and has in connection with the collection failed to make its full name, as it appears on its registration certificate, known to the public.
- (2) The board may amend a registration certificate -
- (a) in order to correct any error therein or by varying the conditions attached thereto;
 - (b) by the deletion or amendment of any of the objects in respect of which the welfare organization concerned is registered, if the board is of the opinion that the organization is no longer bona fide operating in furtherance of such objects; or
 - (c) by changing the name of the welfare organization concerned, if any of the objects of the organization have been deleted or amended under paragraph (b) and the board is of the opinion that the public may be misled by the name of the organization,

and the board may in the event of any such amendment issue to the managing committee of the organization a fresh certificate of registration in respect of the organization in substitution for the certificate originally issued.

- (3) The board shall, before cancelling or amending any certificate of registration under sub-section (1) or (2), in writing advise the managing committee of the organization concerned of its intention, and afford that managing committee a reasonable opportunity to show cause why the cancellation or amendment should not be effected.
- (4) (a) The Minister may after consultation with the board cancel any certificate of registration granted to a welfare organization by the board.
- (b) The provisions of sub-sections (5) and (6) of this section shall, in so far as they relate to the cancellation of any certificate of registration, apply also with reference to a cancellation under paragraph (a) of this sub-section.
- (5) A managing committee which, having received a written request from the board to lodge with it for cancellation or amendment any registration certificate issued to that managing committee, without reasonable excuse fails to comply with such request within ninety days after the receipt thereof, shall be guilty of an offence.
- (6) The cancellation of a certificate of registration or the deletion or amendment of any of the objects in respect of which the organization concerned is registered or the alteration of the name of the

organization shall be notified in the Official Gazette and shall take effect from the date mentioned in the notification, whether or not the certificate has in terms of a request under sub-section (5) been lodged with the board.

22. Change of name and objects of registered welfare organization

(1) The board may at the request of the managing committee of a registered welfare organization consent to the change of the name of the organization or the amendment of any of the objects for the furtherance of which it is conducted.

(2) (a) An application under sub-section (1) shall be lodged with the board and shall be accompanied by the certificate of registration originally issued.

[paragraph (a) amended by Act 12 of 1979]

(b) The board shall, after the requirements specified in subsection (3) have been complied with, cause the application to be investigated by the chief social welfare officer.

[paragraph (b) substituted by Act 12 of 1979]

(3) (a) A welfare organization which lodges an application in terms of sub-section (1) shall cause to be published in the prescribed manner a notice indicating the contemplated change of its name or amendment of its objects, and shall submit proof that such a notice has been published.

(b) Any person or group of persons may within the prescribed period lodge with the board an objection to any such change or amendment setting forth the grounds on which objection is made to the grant of the application.

[paragraph (b) amended by Act 12 of 1979]

23. Surrender of registration certificate by welfare organization

The managing committee of a registered welfare organization may after giving ninety days' notice of its intention to do so, surrender to the board the registration certificate issued in respect of that organization, and thereupon the board may accept the surrender subject to such conditions as it may deem fit.

24. Organization whose certificate has been cancelled or surrendered may again be registered

The board may, upon application by the managing committee of a welfare organization whose certificate of registration has been cancelled or surrendered under this Act, issue to that managing committee a fresh certificate of registration in respect of the organization, and the provisions of section nineteen shall mutatis mutandis apply with reference to an application for and the issue of such a certificate of registration.

25. Appeal against decisions of board

(1) A welfare organization which is aggrieved by a decision of the board relating to the rejection, wholly or in part, of an application for registration or exemption, or to the cancellation, amendment, surrender or reissue of any certificate of registration or exemption, may appeal against that decision to an appeal committee to be constituted by the Minister for the particular case: Provided that there shall be no right of appeal against -

(a) the refusal of the board to register a welfare organization in respect of an object referred to in paragraph (e) of the definition of "welfare organization" in section 1, on the ground that The Law Society of Namibia has not in terms of paragraph (a) of subsection (5) of section 19 consented to the registration in respect of the said object;

[paragraph (a) amended by Act 12 of 1979 and by Act 9 of 1993; not all of the changes made by Act 9 of 1993 are indicated by amendment markings]

- (b) the refusal of the Minister to consent to the grant of an application under paragraph (b) of sub-section (5) of section nineteen; or
 - (c) the cancellation by the Minister of any certificate of registration under sub-section (4) of section twenty-one.
- (2) Any such appeal committee shall consist of -
- (a) a magistrate with not less than ten years' experience as a magistrate who shall be the chairman; and
 - (b) two persons with experience in or knowledge of welfare organization who are not members of the board or a commission or welfare committee or of the appellant or officers in the public service.
- (3) The appellant shall have the right if it so desires to appear before the appeal committee by counsel or other representative or to submit written statements or arguments in support of the appeal.
- (4) The procedure to be followed in connection with the constitution of an appeal committee and the lodging and prosecution of an appeal under this section shall be prescribed.
- (5) The appeal committee may confirm the decision of the board or may, with due regard to the provisions of this Act, give such other decision as the board should in its opinion have given, and may direct the board to do everything that may be necessary to give effect to the decision of the committee.
- (6) A member of an appeal committee who is not in the full-time service of the State may be paid such fees and travelling and subsistence allowances as may be determined by the Minister in consultation with the Minister of Finance.

[subsection (6) amended by Act 12 of 1979 and by Act 9 of 1993]

26. Conditions relating to management of welfare organizations

- (1) No welfare organization shall be or remain registered under this Act unless it is governed in accordance with a written constitution not in conflict with the provisions of this Act, providing inter alia for a managing committee of not less than seven members.
- (2) (a) The responsibility for the observance by a welfare organization of the provisions of this Act shall devolve upon its managing committee, and such committee shall keep such books, accounts and registers and from time to time furnish such reports and returns as may be prescribed.
- (b) The reports and returns referred to in paragraph (a) shall be furnished to the board and the board shall deal therewith in such manner as may be prescribed.

[paragraph (b) substituted by Act 12 of 1979]

27. Certain registered welfare organizations to establish branch committees

- (1) Every registered welfare organization which conducts its activities wholly or partly through branches operating under the guidance and control of the managing committee shall in respect of each such branch establish a committee consisting of not less than five members (hereinafter referred to as a branch committee), and such managing committee shall grant to every branch committee a letter of delegation in the prescribed form and subject to the prescribed conditions.
- (2) Upon the cancellation or surrender of a certificate of registration granted to any managing committee in respect of any welfare organization, any letter of delegation granted to a branch committee by such managing committee shall lapse.

28. Branches not under control of managing committee to be regarded as separate organizations

Every branch of a welfare organization which is not under the control and guidance of the managing committee of that organization shall for the purposes of this Act be deemed to be an independent and separate welfare organization.

29. Persons collecting contributions to have proof of authority

- (1) Subject to the provisions of sub-section (2), every person who collects contributions for a registered welfare organization shall have in his possession and shall produce for inspection at the request of any person specially authorized thereto by a local authority or by the registrar, or of any person from whom he collects contributions, a document of authority in the prescribed form, granted to him by such person or body as may be prescribed in relation to the particular type of organization, or a distinctive badge approved by the board, and shall further in connection with the collection of such contributions comply with the provisions of the regulations relating thereto.
- (2) The provisions of sub-section (1) shall not apply in respect of the collection of contributions -
 - (a) by means of a street collection conducted in accordance with the by-laws of a local authority;
 - (b) at a divine service; or
 - (c) on the premises on which any bazaar, sale, competition, entertainment, exhibition or other function is being held for the purpose of collecting such contributions, provided the person or body under whose auspices such bazaar, sale, competition, entertainment, exhibition or other function is being held is in possession of a document of authority referred to in sub-section (1) authorizing the collection of contributions thereat.

30. Inspection of welfare organizations and audit of books and accounts

- (1) The Minister may appoint an officer in the public service (hereinafter referred to as an inspecting officer) who may generally or in respect of any particular case and in consultation with the board -
 - (a) inspect any aspect of the affairs or activities of such welfare organization and examine all documents relating thereto; and
 - (b) examine and audit the books, accounts and other documents relating to the financial affairs of such welfare organization.

[subsection (1) amended by Act 12 of 1979]

- (2) An inspecting officer who holds a general appointment as such shall not carry out any inspection, examination or audit under sub-section (1) unless he has been specially authorized thereto by the registrar or the Permanent Secretary.
- (3) For the purposes of any inspection, examination or audit under sub-section (1) an inspecting officer may -
 - (a) by notice under his hand delivered to the person concerned personally or sent to him by registered post, require any person who such officer has reason to believe may be able to produce any book or other document having any bearing on the matter in question to appear personally before such officer at a time and place stated in the notice and produce any such book or document which he may be able to produce;
 - (b) retain for a reasonable period any book or document produced to him by any person in pursuance of a notice under this sub-section or voluntarily.
- (4) Any person who, having received notice under subsection (3), without lawful excuse fails to produce any book or document referred to in that subsection which he is able to produce, shall be guilty of an offence: Provided that in connection with the production of any such book or document the law relating to privilege, as applicable to a witness subpoenaed to produce any book or document before a court of law, shall apply.
- (5) Any person who -

- (a) wilfully hinders or obstructs an inspecting officer in the performance of his functions; or
- (b) falsely holds himself out as an inspecting officer, shall be guilty of an offence.

[In the original Government Gazette, subsections (4) and (5) were mis-numbered as subsections (5) and (6). Act 102 of 1967 corrects the numbering and substitutes subsection (4) to correct an erroneous cross-reference, with the amendment deemed to have come into force on 1 July 1966.]

31. Manner of dealing with contributions unlawfully collected

- (1) The Minister may, after consultation with the board, by order in writing under his hand -
 - (a) direct any person holding or having the control of any money, securities or other property representing contributions collected contrary to the provisions of this Act, to retain possession or control thereof until the Minister has made a further order in regard thereto;
 - (b) direct any person holding or having control of any money, securities or property referred to in paragraph (a) -
 - (i) to return to every contributor who is known, the money, securities or property contributed by him, and to transfer or deliver the balance thereof, if any, to the Minister; or
 - (ii) to transfer or deliver such money, securities or property to the Minister, who shall thereupon return to every contributor who is known, the money, securities or property contributed by him.
- (2) Any money, securities or property which cannot be returned to the contributor concerned in accordance with sub-section (1) shall be disposed of as the Minister may determine.

32. Board may dissolve certain organizations

If a welfare organization ceases to function and its managing committee is not or cannot be constituted in accordance with its constitution in order that the organization may be dissolved, the board may dissolve the organization, and for that purpose the board shall have all the powers of such a managing committee and shall dispose of the assets of the organization in accordance with the constitution of the organization.

[Section 32 is amended by Act 12 of 1979. The amendment requires the deletion of two commas, although this is not specifically indicated by the amending Act.]

33. ***

[section 33 deleted by Act 9 of 1993]

34. ***

[section 34 deleted by Act 9 of 1993]

35. ***

[section 35 deleted by Act 9 of 1993]

36. ***

[section 36 deleted by Act 9 of 1993]

37. ***

[section 37 deleted by Act 9 of 1993]

38. ***

[section 38 substituted by Act 9 of 1993 and deleted by Act 20 of 1994]

39. Contribution towards remuneration of social workers

The Minister may in consultation with the Minister of Finance out of moneys appropriated by law for that purpose, and subject to such conditions as the Minister may determine, contribute towards the remuneration of any person performing social work in the service of any welfare organization, if such person is a social worker.

[section 39 amended by Act 12 of 1979 and substituted by Act 9 of 1993]

40. ***

[section 40 amended by Act 12 of 1979 and deleted by Act 9 of 1993]

41. Offences and penalties

- (1) Any person who -
- (a) collects or attempts to collect contributions for a welfare organization not registered under this Act; or
 - (b) collects or attempts to collect, otherwise than in the circumstances set out in sub-section (2) of section twenty-nine, contributions for any organization referred to in sub-section (1) of that section, without being in possession of such evidence of authority as is referred to in that sub-section; or
 - (c) in connection with the collection of contributions for any organization referred to in sub-section (1) of section twenty-nine, fails to comply with the provisions of any regulation relating thereto; or
 - (d) fails to comply with any lawful request under subsection (1) of section twenty-nine; or
 - (e) falsely represents to a member of the public that he is duly authorized under this Act to collect contributions for any organization referred to in sub-section (1) of section twenty-nine; or
 - (f) falsely represents to a member of the public that he is associated with any welfare organization, whether or not such organization is actually in existence; or
 - (g) collects contributions from the public for any object set out in the definition of "welfare organization" in section one, except in circumstances under which such collection is permitted by virtue of any provision of this Act; or
 - (h) in or in connection with -
 - (i) an application for registration of a welfare organization in terms of section nineteen, or the exemption of such an organization under section seventeen; or
 - (ii) a notification under section twenty-two of a change in the name or objects of a registered welfare organization; or
 - (iii) an application to any organization referred to in sub-section (1) of section twenty-nine for authority to collect contributions for its benefit,willfully makes any false or misleading statement or furnishes any false or misleading information; or
 - (i) fails to comply to the best of his ability with any order of the Minister under section thirty-one, shall be guilty of an offence

[There should be a full stop at the end of subsection (1).]

- (2) Any person convicted of an offence under any provision of this Act shall be liable -
- (a) in the case of an offence referred to in paragraph (a), (b), (c), (d) or (g) of sub-section (1) of this section, to a fine not exceeding fifty rand or imprisonment for a period not exceeding three months or to both such fine and such imprisonment;
 - (b) in the case of an offence referred to in sub-section (3) of section sixteen, sub-section (5) or (6) of section thirty or paragraph (e), (f) or (h) of sub-section (1) of this section, to a fine not exceeding four hundred rand or imprisonment for a period not exceeding six months or to both such fine and such imprisonment; and
 - (c) in the case of an offence referred to in sub-section (2) of section thirty-seven, to a fine not exceeding fifty rand or imprisonment for a period not exceeding three months or to both such fine and such imprisonment.
- (3) If in a charge against any person for a contravention of paragraph (f) of sub-section (1) it is alleged that the organization with which the accused held himself out to be associated, did not in fact exist at the time when the offence is alleged to have been committed, and it is proved that no such welfare organization had at that time applied for registration under this Act, it shall be presumed, until the contrary is proved, that such organization was not actually in existence at that time.

42. Regulations

- (1) The Minister may, subject to the provisions of subsection (2), make regulations with regard to -
- (a) the form of any application, authority, certificate, consent, notice, order, process, register or summons to be made, granted, given, issued or kept under this Act, and any other form required in carrying out the provisions of this Act;
 - (b) the conditions which may be imposed in connection with -
 - (i) the registration of any welfare organization or the exemption of any such organization from the operation of any provision of this Act;
 - (ii) *[subparagraph (ii) deleted by Act 9 of 1993]*
 - (iii) the grant of any authority under section eighteen;
 - (iv) the surrender of any certificate of registration under section twenty-three;
 - (c) the books, accounts and registers to be kept by registered or exempted welfare organizations, or any person or group of persons to whom or unregistered welfare organization to which any authority has been granted under section eighteen, the manner in which such books, accounts and registers shall be kept and shall be dealt with, and the returns and reports that shall be furnished;
 - (d) the conditions to be complied with by any person in connection with the collection of contributions for any organization referred to in sub-section (1) of section twenty-nine;
 - (e) the procedure to be followed in connection with the constitution of any appeal committee and the lodging and prosecution of any appeal in terms of section 25, and the fees and allowances to be paid to the members of any such committee;
[paragraph (e) amended by Act 9 of 1993]
 - (f) the circumstances under which, the purposes for which and the conditions on which the expenditure referred to in sub-section (2) of section fourteen shall be paid and the manner in which the amounts paid shall be accounted for;
 - (g) the functions which may be performed by the executive committee of a welfare committee;
 - (h) the calling of meetings of the board, commissions, welfare committees and executive committees of welfare committees and the quorum for and procedure at any such meeting, and, generally, the

performance by the board, commissions, welfare committees and such executive committees of their functions;

[paragraph (h) amended by Act 12 of 1979]

[paragraphs (i)-(p) deleted by Act 9 of 1993]

- (q) any other matter which may or is required to be prescribed under any provision of this Act or which the Minister considers it necessary or expedient to prescribe in order that the objects of this Act may be achieved.
- (2) Regulations under paragraphs (a) to (h) inclusive and paragraph (q) of sub-section (1) shall be made after consultation with the board.

[subsection (2) amended by Act 9 of 1993]

- (3) Any regulations made under sub-section (1) may prescribe penalties for a contravention thereof not exceeding, in the case of a regulation made under paragraph (a), (b), (c), (d), (e), (f), (g) or (h) of that sub-section, a fine of one hundred rand or imprisonment for a period of six months, or, in any other case, not exceeding a fine of fifty rand or imprisonment for a period of three months.
- (4) *[subsection (4) deleted by Act 12 of 1979]*

43. Repeal of laws

- (1) Subject to the provisions of sub-section (2), the Welfare Organizations Act, 1947 (Act No. 40 of 1947), the Welfare Organizations Amendment Act, 1949 (Act No. 3 of 1949), sections ninety-four, ninety-five and ninety-six of the Children's Act 1960 (Act No. 33 of 1960), the Welfare Organizations Amendment Act, 1961 (Act No. 75 of 1961), and section thirty of the General Law Further Amendment Act, 1962 (Act No. 93 of 1962), are hereby repealed.
- (2) Any proclamation, regulation, rule, direction, notice, certificate, authority, consent, letter of delegation, evidence of authority, order or appointment issued, made, given, prepared, published or granted and any other action taken under any provision of any law repealed by sub-section (1), shall be deemed to have been issued, made, given, prepared, published, granted or taken under the corresponding provision of this Act.

[Section 6 of Act 13 of 1971, which made this Act applicable to South West Africa, provided for an additional repeal and transitional provisions in respect of South West Africa:

“(1) Subject to the provisions of subsections (2) and (3) the Welfare Organisations Ordinance, 1965 (Ordinance No. 33 of 1965) (in this section referred to as the Ordinance), of the territory of South-West Africa is hereby repealed.”

(2) For the purposes of the application of section 15 of the principal Act in the territory of South-West Africa the names of the persons nominated pursuant to the last notice published under section 2 (2) (a) of the Ordinance shall be submitted to the Minister and shall be placed on the nomination list referred to in subsection (2) of the said section 15.

(3) Any notice, certificate, authority, consent, letter of delegation, evidence of authority, order or appointment issued, prepared, published, granted or made, and any other action taken under a provision of the Ordinance, shall be deemed to have been issued, prepared, published, granted, made or taken under the corresponding provision of the principal Act.”]

43A. ***

[section 43A inserted by Act 13 of 1971, amended by Act 12 of 1979 and deleted by Act 9 of 1993]

44. Short title and commencement

- (1) This Act shall be called the National Welfare Act, 1965, and shall come into operation upon a date to be fixed by the State President by proclamation in the Gazette.
- (2) Different dates may be fixed under sub-section (1) in respect of different provisions of this Act.

[Section 28 of Act 9 of 1993 provides the following transitional provision:

28. "Savings

(1) Subject to the provisions of subsection (2), anything done before the commencement of this Act under a provision of the principal Act, shall, except in so far as it is obviously inappropriate, be deemed to have been done under that provision as amended by any provision of this Act.

(2)

(a) The amendment of section 2 of the principal Act by section 2 of this Act shall not have any effect on the constitution of the National Welfare Board of Namibia, so referred to therein, as constituted at the commencement of this Act, and any member of the said board shall continue to hold office until expiry of the period for which he or she was appointed or until he or she vacates office, as the case may be.

(b) The person who immediately before the commencement of this Act was the chairperson or deputy chairperson of the National Welfare Board of South West Africa referred to in section 2 of the principal Act before the amendment of that section by section 2 of this Act, shall, subject to the provisions of paragraph (a) and with effect from the commencement of this Act, be deemed to have been designated or elected as chairperson or deputy chairperson, as the case may be, of the National Welfare Board of Namibia under section 2(3) of the principal Act.

(3) Any reference in any law or any document to the National Welfare Board of South West Africa shall be construed as a reference to the National Welfare Board of Namibia."