

Draft Order laid before the Scottish Parliament under section 25(2)(b)(i) of the Public Services Reform (Scotland) Act 2010 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

**PUBLIC SERVICES REFORM
EDUCATION**

**The Public Services Reform (General
Teaching Council for Scotland) Order 2011**

*Made - - - - 2011
Coming into force in accordance with article 2 and
Schedule 1*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 14(1), (3)(a) and (b), and (7)(a) and (b) of the Public Services Reform (Scotland) Act 2010⁽¹⁾ (“the Act”) and all other powers enabling them to do so.

The Scottish Ministers consider that the conditions in section 16(2) and (10) of the Act are satisfied.

The Scottish Ministers consider that the conditions in section 20(4) and (5)(b) of the Act are satisfied in relation to the conferral of a function of legislating on the Scottish Ministers.

The Scottish Ministers have consulted in accordance with section 26 of the Act.

The Scottish Ministers have laid a draft of this Order and an explanatory document before the Scottish Parliament in accordance with section 25(2)(b) of the Act.

In accordance with section 25(2)(c) of the Act, the draft of this Order has been approved by resolution of the Scottish Parliament.

PART 1

INTRODUCTORY

Citation

1. This Order may be cited as the Public Services Reform (General Teaching Council for Scotland) Order 2011.

Commencement

2.—(1) The following provisions of this Order come into force on 4th April 2011:—

- (a) articles 1, 2 and 3 (in so far as article 3 relates to the other provisions coming into force on that day); and
- (b) the provisions of this Order specified in column 1 of Schedule 1 and described by reference to the subject matter in column 2 of that Schedule but, where a particular purpose is specified in relation to any provision in column 3 of that Schedule, that provision shall come into force on that day for that purpose only.

(2) All the provisions of this Order, in so far as not already in force on 2nd April 2012, come into force on that date.

(3) This article is subject to article 32 (transitional and savings provisions) and Schedule 5.

(4) Where a provision of this Order requires consultation to take place and, before that provision comes into force, consultation takes place which would have satisfied the requirements to any extent had the provision been in force, the requirement is to be taken to have been satisfied to that extent.

Interpretation

3. In this Order—

“the 1980 Act” means the Education (Scotland) Act 1980(2);

“the 1965 Act” means the Teaching Council (Scotland) Act 1965(3);

“educational establishment” has the same meaning as in the 1980 Act;

“further education institution” means a body listed under the heading “Institutions formerly eligible for funding by the Scottish Further Education Funding Council” in schedule 2 to the Further and Higher Education (Scotland) Act 2005(4) and “further education teacher” is to be construed accordingly;

“the GTCS” has the meaning given by article 4;

“the GTCS rules” has the meaning given by article 15;

“recognised teaching qualification” is to be construed in accordance with articles 29 and 30;

“the register” means the register of teachers kept by the GTCS in accordance with this Order and “registered” and “registration” are to be construed accordingly;

“registration criteria” means the criteria for registration set out in the GTCS rules which are to be met by individuals seeking registration;

“school” has the same meaning as in the 1980 Act and “school teacher” is to be construed accordingly;

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- (2) [1980 c.44](#); section 135 (interpretation) of this Act is relevant to this Order; the relevant definitions have been amended by section 2(2) of the Registered Establishments (Scotland) Act [1987 \(c.40\)](#), section 82(1) and (2) of and Schedules 10 and 11 to the Self-Governing Schools etc. (Scotland) Act [1989 \(c.39\)](#) and section 62(2) and (3) of and Schedules 9 and 10 to the Further and Higher Education (Scotland) Act [1992 \(c.37\)](#).
 - (3) [1965 c.19](#); as amended by Schedules 2 and 3 to the Education (Scotland) Act [1969 \(c.49\)](#), Schedule 1 to the Teaching Council (Scotland) Act [1971 \(c.2\)](#), sections 289F and 289G of the Criminal Procedure (Scotland) Act [1975 \(c.21\)](#), Schedule 6 to the Local Government (Scotland) Act [1975 \(c.30\)](#), section 21 of and Schedule 7 to the Education (Scotland) Act [1981 \(c.58\)](#), section 82 of and Schedule 10 to the Self-Governing Schools etc. (Scotland) Act [1989 \(c.39\)](#), section 55 of and Schedule 9 to the Further and Higher Education (Scotland) Act [1992 \(c.37\)](#), section 16 of the Teaching and Higher Education Act [1998 \(c.30\)](#), sections 45 to 54 of and schedules 2 and 3 to the [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), section 13 of the [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), schedule 3 to the [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#) and schedule 4 to the [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#); also as amended by S.I. [1969/586](#), [1970/523](#), [1991/1997](#), [1997/207](#), [1999/1820](#), [2008/948](#) and S.S.I. [2009/386](#).
 - (4) [2005 asp 6](#); schedule 2 to this Act has been relevantly amended by S.S.I. [2005/660](#), [2006/480](#), [2007/255](#) and [524](#) and [2008/241](#) and [412](#).

“teacher” means an individual who has either obtained a recognised teaching qualification, or who has satisfied the GTCS that they have adequate education, training or experience to warrant registration;

“unfit to teach” has the meaning given by article 18(3).

PART 2

THE GENERAL TEACHING COUNCIL FOR SCOTLAND

General Teaching Council for Scotland

4.—(1) There is to continue to be a body corporate known as the General Teaching Council for Scotland (“the GTCS”).

(2) Schedule 2 makes provision about the membership of the GTCS.

(3) Schedule 3 makes further provision about the GTCS’s status, proceedings, staff and other matters.

Principal aims

5. The GTCS’s principal aims are—

- (a) to contribute to improving the quality of teaching and learning; and
- (b) to maintain and improve teachers’ professional standards.

General functions

6. The GTCS’s general functions are—

- (a) to keep the register;
- (b) to establish (and to review and change as necessary)—
 - (i) the standards of education and training appropriate to school teachers;
 - (ii) the standards of conduct and professional competence expected of a registered teacher;
- (c) to investigate the fitness to teach of individuals who are, or who are seeking to be, registered;
- (d) to keep itself informed of the education and training of individuals undertaking courses for the education and training of teachers;
- (e) to consider, and to make recommendations to the Scottish Ministers about, matters relating to—
 - (i) teachers’ education, training, career development and fitness to teach; and
 - (ii) the supply of teachers (except matters of remuneration or conditions of service); and
- (f) to keep such other registers of other individuals working in educational settings as it thinks fit.

Public interest

7. The GTCS must have regard to the interests of the public when performing its functions.

Best regulatory practice

8. The GTCS must perform its functions in a way which—
- (a) is proportionate, accountable, transparent and consistent;
 - (b) is targeted only where action is needed;
 - (c) encourages equal opportunities and in particular the observance of the requirements of the law for the time being relating to equal opportunities; and
 - (d) is consistent with any other principle which appears to it to represent best regulatory practice.

General powers

9.—(1) The GTCS may do anything which appears to it to be appropriate for the purposes of, or in connection with, the performance of its functions.

- (2) The GTCS may, in particular—
- (a) acquire and dispose of land and other property;
 - (b) enter into contracts;
 - (c) borrow money;
 - (d) charge fees for providing services.

Advice, research, publication and promotion

10. The GTCS may (as it thinks fit)—
- (a) give to any person, or publish, any advice relating to its functions;
 - (b) carry out or commission research to inform its approach towards performing its functions;
 - (c) publish, or assist in publishing, any information or advice relating to its functions;
 - (d) publicise, or assist in publicising, any matter relating to its functions.

Recommendations to the Scottish Ministers

11. The Scottish Ministers must, when performing functions relating to education, have regard to any relevant recommendations made by the GTCS.

Co-operation with other teaching councils

- 12.—(1) The GTCS must—
- (a) provide the other UK teaching councils with such information as the GTCS considers necessary or desirable for those councils to have for the purposes of performing their statutory functions; and
 - (b) so far as consistent with the proper performance of its functions, otherwise seek to secure co-operation between it and the other UK teaching councils.
- (2) The other UK teaching councils are—
- (a) the General Teaching Council for England;
 - (b) the General Teaching Council for Wales;
 - (c) the General Teaching Council for Northern Ireland; and
 - (d) any successor body or person which takes over all or any of the functions of the councils listed in sub-paragraphs (a) to (c).

Employers' duty to provide information about teachers

13. A person who employs a registered teacher to work in an educational establishment must provide the GTCS with—

- (a) the name of the individual so employed; and
- (b) such other information about that individual as the GTCS may reasonably require in connection with the performance of its functions.

PART 3

THE REGISTER

The Register of Teachers

The register of teachers

14.—(1) It is for the GTCS to sub-divide or otherwise organise entries in the register in such manner as it thinks fit.

- (2) For example, the register may have separate parts for—
 - (a) individuals registered to teach in primary schools;
 - (b) individuals registered to teach in secondary schools; and
 - (c) individuals registered to teach in further education institutions.
- (3) The GTCS must make the register available for inspection by the public.

GTCS rules

15.—(1) The GTCS must make and publish rules (“the GTCS rules”)—

- (a) setting out the procedure for inclusion in the register;
- (b) setting out registration criteria; and
- (c) otherwise governing the operation of the register.
- (2) The GTCS rules may set different procedures, or different registration criteria, for different types of teacher or otherwise for different purposes.
- (3) The GTCS rules may, in particular, make provision about—
 - (a) the form and keeping of the register;
 - (b) the making of entries in the register and alterations to those entries;
 - (c) the keeping of different categories of registration;
 - (d) the charging of fees in relation to registration;
 - (e) making entries provisional on the GTCS being satisfied that conditions are met;
 - (f) the provision of information to the GTCS by or about individuals who are registered or who are seeking registration;
 - (g) removing individuals from the register;
 - (h) restricting and cancelling entries in the register;
 - (i) circumstances in which registration may lapse;
 - (j) re-registering individuals or otherwise restoring entries to the register;

- (k) the issuing of registration certificates; and
 - (l) such other matters relating to registration as the GTCS thinks fit.
- (4) Before making or varying the GTCS rules, the GTCS must—
- (a) consult—
 - (i) teachers or their representatives;
 - (ii) employers of teachers or their representatives; and
 - (iii) such other persons appearing to it to have an interest; and
 - (b) have regard to any views expressed by those consulted.

Entry in the register of teachers

- 16.—(1) The GTCS must include an individual in the register if—
- (a) it is satisfied—
 - (i) that the registration criteria are met in relation to the individual;
 - (ii) that the individual is not unfit to teach; and
 - (iii) that the GTCS rules do not otherwise prevent the individual from being registered; and
 - (b) article 19 does not prevent the GTCS from registering the individual.
- (2) The register must contain an entry for each individual included in it setting out—
- (a) the individual’s name and address; and
 - (b) such other information about the individual’s qualifications and other particulars as may be specified in the GTCS rules.

Recognised teaching qualifications

17. The registration criteria set out in the GTCS rules must provide that an individual may be registered only if—
- (a) the individual has obtained a recognised teaching qualification; or
 - (b) the GTCS is otherwise satisfied that the individual’s education, training or experience warrants the individual’s registration.

Fitness to teach

- 18.—(1) The GTCS—
- (a) must investigate the fitness to teach of any individual seeking registration; and
 - (b) may investigate any registered teacher’s fitness to teach where it becomes aware of circumstances which it considers justify such an investigation.
- (2) The GTCS must—
- (a) refuse to register any individual seeking registration whom it considers to be unfit to teach; and
 - (b) remove from the register any registered teacher whom it subsequently considers to be unfit to teach.
- (3) An individual is “unfit to teach” for the purposes of this Order if the GTCS considers that the individual’s conduct or professional competence falls significantly short of the standards expected of a registered teacher (and “fitness to teach” is to be construed accordingly).

- (4) Schedule 4 makes further provision regarding individuals' fitness to teach.

Barred individuals

19. The GTCS must, on being notified that an individual is barred from regulated work with children by virtue of the Protection of Vulnerable Groups (Scotland) Act 2007(5)—

- (a) refuse to register that individual; or, as the case may be
- (b) remove that individual from the register.

Registration fees

20.—(1) The GTCS may charge fees in relation to registration.

(2) The GTCS rules may make provision about—

- (a) when registration fees are payable;
- (b) by whom registration fees are to be paid;
- (c) arrangements in accordance with which registration fees are to be paid; and
- (d) circumstances in which registration fees may be reduced, waived or refunded.

(3) A person who employs a registered teacher to work in an educational establishment must (if required to do so by the GTCS rules)—

- (a) deduct amounts in respect of registration fees from the registered teacher's salary; and
- (b) remit those amounts to the GTCS.

(4) The GTCS rules may make different rules in relation to fees for different circumstances.

Temporary restriction

21. The GTCS rules may make provision to restrict an individual's registration pending conclusion of its investigation into any circumstances which on the face of it might cause it to remove the individual from the register.

Removal from register

22.—(1) The GTCS rules may set out circumstances (other than those mentioned in articles 18 and 19) in which it may remove an individual from the register.

(2) Those circumstances may, in particular, include—

- (a) failure to pay any fee due in respect of the individual's registration;
- (b) failure to notify the GTCS of any change of information recorded in the individual's entry.

(3) If the GTCS rules set out any such circumstance, they must also require the GTCS to review any decision to remove an individual in that circumstance if requested to do so by the individual affected.

Notices

23.—(1) The GTCS must notify an individual of a decision—

- (a) to refuse to register the individual because the GTCS considers that the individual—
 - (i) is unfit to teach;

(5) [2007 asp 14](#). Part 1 of that Act makes provision as to the operation of the lists of those individuals who are barred from working with children. Relevant amendments are to be made to Part 1 by schedule 14 of the [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), schedule 7 of the [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#) and S.I. 2009/1182.

- (ii) is barred from regulated work with children by virtue of the Protection of Vulnerable Groups (Scotland) Act 2007; or
- (iii) does not otherwise meet the registration criteria;
- (b) to restrict an individual's registration under any rule made by virtue of article 21; or
- (c) to remove the individual from the register, other than in accordance with any rule made by virtue of article 22, because the GTCS considers that the individual—
 - (i) is unfit to teach;
 - (ii) is barred from regulated work with children by virtue of the Protection of Vulnerable Groups (Scotland) Act 2007; or
 - (iii) no longer meets the registration criteria.
- (2) The notice must—
 - (a) explain why the decision was made; and
 - (b) advise the individual of the right to appeal the decision under article 24.
- (3) The GTCS must advise any person whom it knows employs the individual to work in an educational establishment of the decision.

Appeals

- 24.**—(1) Subject to paragraph (6), an individual may appeal to the Court of Session against any decision of the GTCS in respect of which notification is required under article 23.
- (2) An appeal must be made no later than 28 days after the individual receives notice of—
 - (a) the decision; or
 - (b) the outcome of any review of the decision carried out in pursuance of GTCS rules made under paragraph 1(2)(b)(ii) of Schedule 4.
 - (3) The Court of Session may determine an appeal giving such directions as it thinks fit (including directions as to the expenses of the appeal).
 - (4) The Court of Session's decision is final.
 - (5) A decision which may be appealed under this article, other than a decision to restrict an individual's registration under any rule made by virtue of article 21, does not have effect until—
 - (a) the period for making the appeal has ended; or
 - (b) where an appeal is made, it is withdrawn or finally determined.
 - (6) No appeal may be made where the refusal of an individual's registration or the removal of an individual from the register is in consequence of article 19.

Employers: duty to report misconduct or incompetence

- 25.**—(1) A person who employs a registered teacher to work in an educational establishment must immediately notify the GTCS if—
- (a) they dismiss the registered teacher on grounds of misconduct or incompetence; or
 - (b) the registered teacher resigns or otherwise stops working for the person in circumstances in which the person, but for that fact, would have or might have dismissed the registered teacher on such grounds.
- (2) Such a notice to the GTCS must explain the circumstances which caused the person to dismiss, or to conclude that they would have or might have dismissed, the registered teacher.

Register of other education professionals

Register of other education professionals

26.—(1) The GTCS may keep such other registers of other individuals working in educational settings as it thinks fit.

(2) The GTCS must make and publish a scheme governing the operation of any such register.

(3) Such a scheme may make such provision about any such register as the GTCS thinks fit and may, in particular, include provisions equivalent to provisions made by or under this Order in relation to the register of teachers.

Offences

Offences

27.—(1) It is an offence for a person to provide the GTCS or any other person with information if the person—

- (a) knows that the information is false or misleading in a material respect; and
- (b) knows, or could reasonably be expected to know that the GTCS may use the information in connection with the performance of its functions.

(2) It is an offence for a person to pretend, with fraudulent intent, to be registered in the register or in any other register of individuals working in educational settings kept by the GTCS under article 26 when the person is not so registered.

(3) A person who commits an offence under this article is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

PART 4

STANDARDS OF EDUCATION, TRAINING, ETC.

Consultation

28. Before establishing new standards, or changing existing standards, of education, training, conduct or professional competence appropriate to teachers, the GTCS must—

- (a) consult—
 - (i) teachers or their representatives;
 - (ii) employers of teachers or their representatives; and
 - (iii) such other persons appearing to it to have an interest; and
- (b) have regard to any views expressed by those consulted.

Teaching qualifications: primary and secondary education

29.—(1) It is for the GTCS to determine what constitutes a recognised teaching qualification for individuals seeking registration as a school teacher.

(2) A determination may make such provision about the education and training required to attain such a qualification as the GTCS thinks fit.

(3) A determination may, in particular, make provision about—

- (a) institutions providing courses of education and training for teachers;
 - (b) the qualifications of persons employed by institutions providing courses of education and training for teachers;
 - (c) the admission of individuals to such courses;
 - (d) the content, nature and duration of such courses;
 - (e) the assessment of individuals undertaking such courses;
 - (f) the functions of the governing bodies, principals and members of staff of institutions providing those courses.
- (4) A determination may make different provision for different types of school teachers or institutions or otherwise for different purposes.
- (5) Before making or varying a determination, the GTCS must—
- (a) consult—
 - (i) institutions providing courses of education and training for teachers or their representatives;
 - (ii) the Scottish Ministers; and
 - (iii) such other persons appearing to it to have an interest; and
 - (b) have regard to any views expressed by those consulted.
- (6) The GTCS must publish determinations.

Teaching qualifications: further education

- 30.—**(1) It is for the Scottish Ministers to determine what constitutes a recognised teaching qualification for individuals seeking registration as a further education teacher.
- (2) A determination may make such provision about the education and training required to attain such a qualification as the Scottish Ministers think fit.
- (3) A determination may, in particular, make provision about—
- (a) institutions providing courses of education and training for teachers;
 - (b) the admission of individuals to such courses;
 - (c) the content, nature and duration of such courses;
 - (d) the assessment of individuals undertaking such courses;
 - (e) the functions of the governing bodies, principals and members of staff of institutions providing those courses.
- (4) A determination may make different provision for different types of further education teachers or institutions or otherwise for different purposes.
- (5) Before making or varying a determination, the Scottish Ministers must—
- (a) consult—
 - (i) further education institutions or their representatives;
 - (ii) the GTCS; and
 - (iii) such other persons appearing to them to have an interest; and
 - (b) have regard to any views expressed by those consulted.
- (6) The Scottish Ministers must publish determinations.

GTCS duty to make re-accreditation scheme

31.—(1) The GTCS must make and publish a scheme setting out measures to be undertaken for the purposes of allowing it to keep itself informed about the standards of education and training of registered teachers.

(2) The scheme may, in particular—

- (a) impose, or allow the GTCS to impose, requirements on registered teachers;
- (b) make provision with respect to failure to comply with such requirements (including, for example, provision allowing the GTCS to review the registration of any individual by or in respect of whom such a failure is made).

(3) The scheme may make different provision in respect of different types of registered teacher or otherwise for different purposes.

(4) Before making or varying the scheme, the GTCS must—

- (a) consult—
 - (i) registered teachers or their representatives;
 - (ii) employers of registered teachers or their representatives;
 - (iii) the Scottish Ministers; and
 - (iv) such other persons appearing to it to have an interest; and
- (b) have regard to any views expressed by those consulted.

PART 5

FINAL PROVISIONS

Transitional and savings provisions

32. Schedule 5 contains transitional and savings provisions.

Consequential amendments, repeals and revocations

33.—(1) Schedule 6 contains minor amendments and amendments consequential on the provisions of this Order.

(2) The enactments specified in Schedule 7, which include amendments that are spent, are repealed or revoked to the extent specified.

St Andrew's House,
Edinburgh

A member of the Scottish Executive

SCHEDULE 1

Article 2(1)(b)

Provisions of this Order which come into force on 4th April 2011

Column 1	Column 2	Column 3
<i>Provision of this Order</i>	<i>Subject matter</i>	<i>Purpose</i>
Article 15	GTCS rules	Only for the purpose of consulting on, making and publishing rules in accordance with that article prior to 2nd April 2012.
Article 18(4)	Fitness to teach	Only for the purpose of bringing into force the paragraphs of Schedule 4 specified below.
Article 20	Registration fees	Only for the purpose of making provision in the GTCS rules about registration fees prior to 2nd April 2012.
Schedule 2, paragraph 2	Elected members	Only for the purpose of making and publishing an election scheme, an appointments scheme and a membership scheme and enabling elections to be held and appointments and nominations to be made prior to 2nd April 2012 for the GTCS to be constituted in accordance with Schedule 2; and for the purpose of consulting on the election scheme and the appointments scheme.
paragraph 3	Nominated members	
paragraph 4	Appointed members	
paragraph 7	Membership	
Schedule 3, paragraph 3	Committees	Only for the purpose of making a committee scheme and publishing that scheme prior to 2nd April 2012; and for the purposes of appointing Committees and Sub-Committees prior to 2nd April 2012.

Column 1	Column 2	Column 3
<i>Provision of this Order</i>	<i>Subject matter</i>	<i>Purpose</i>
Schedule 3, paragraph 6	Standing orders	Only for the purpose of making standing orders and publishing those orders prior to 2nd April 2012.
Schedule 4, paragraph 1 paragraph 2	GTCS rules on fitness to teach Proceedings	Only for the purpose of making provision for fitness to teach in the GTCS rules and having those rules approved by the Lord President of the Court of Session (“the Lord President”) prior to 2nd April 2012.
Schedule 4, paragraph 3	Legal assessor	Only for the purpose of the Lord President making rules by statutory instrument prior to 2nd April 2012.

SCHEDULE 2

Article 4(2)

GTCS Membership

Membership

1. The GTCS is to have 37 members (19 elected members, 11 nominated members and 7 appointed members).

Elected members

2.—(1) Only registered teachers are eligible to be elected members.

(2) The GTCS must make and publish an election scheme to govern the election of the 19 elected members.

(3) The election scheme may, in particular, make provision about—

- (a) the appointment of a returning officer and of such staff as may be necessary;
- (b) the appointment of an independent scrutineer;
- (c) the powers of a returning officer or independent scrutineer;
- (d) the establishment of a roll of electors consisting of all registered teachers;
- (e) the giving of notice of the holding of an election;
- (f) the eligibility of candidates and electors;
- (g) the nomination of candidates;

- (h) the conduct of an election;
 - (i) the election system;
 - (j) the election count; and
 - (k) the giving of notice of the results of an election.
- (4) Before making or varying the election scheme the GTCS must—
- (a) consult—
 - (i) registered teachers or their representatives; and
 - (ii) those persons appearing to it have an interest; and
 - (b) have regard to any views expressed by those consulted.

Nominated members

3. The 11 nominated members are to be comprised of the following:—
- (a) 3 individuals nominated by the Convention of Scottish Local Authorities (following consultation with the Association of Directors of Education in Scotland);
 - (b) 3 individuals nominated by Universities Scotland (following consultation with institutions providing recognised teaching qualifications for individuals seeking registration as either school teachers or further education teachers);
 - (c) 1 individual nominated by the governing bodies of institutions in the further education sector;
 - (d) 1 individual nominated by the Scottish Council of Independent Schools;
 - (e) 1 individual nominated by the Church and Society Council of the General Assembly of the Church of Scotland;
 - (f) 1 individual nominated by the Scottish Hierarchy of the Roman Catholic Church;
 - (g) 1 individual nominated by a body representative of Parent Councils and Combined Parent Councils.

Appointed members

4. The 7 appointed members are to be appointed by the GTCS.
- (a) The GTCS must make and publish an appointments scheme to govern the making of such appointments;
 - (b) An individual is not eligible to be appointed if the individual—
 - (i) is, or has been registered, or is eligible to be registered; or
 - (ii) has obtained a recognised teaching qualification;
 - (c) The GTCS must, when making and operating the appointments scheme—
 - (i) endeavour to ensure that applications to become appointed members are made by as wide a range of applicants as practicable; and
 - (ii) have regard to any principle which appears to it to represent best practice on public appointments (for example, any guidance from the Commission for Ethical Standards in Public Life in Scotland);
 - (d) The appointments scheme may, in particular, make provision about—
 - (i) advertising for applications to become appointed members; and
 - (ii) the timing, procedure and operation of the scheme;

- (e) Before making or varying the appointments scheme the GTCS must—
 - (i) consult those persons appearing to have an interest; and
 - (ii) have regard to any views expressed by those consulted.

Term of office

- 5.—(1) The duration of the term of office of each member of the GTCS is 4 years.
- (2) No member of the GTCS may hold office for more than an aggregate of 8 years during any period of 20 years.
- (3) For the purposes of the computation of years under sub-paragraph (2), service as a member of the GTCS before 2nd April 2012 is to be discounted.
- (4) This paragraph is subject to paragraph 6 (initial term of office).

Initial term of office

- 6.—(1) This paragraph applies to the term of office of each member of the GTCS serving during the period beginning on 2nd April 2012 (“the initial term”).
- (2) Of the 37 members referred to in paragraph 1, 18 members are to hold office for 2 years only during the initial term.
- (3) On the expiration of the 2 year term, the 18 members are eligible to hold office for a further term of 4 years and paragraph 5(2) applies as if for “8 years” there was substituted “6 years”.
- (4) The GTCS must decide which 18 members of the 37 members referred to in paragraph 1 are to hold office for 2 years only in accordance with sub-paragraph (2).

Membership

- 7.—(1) The GTCS must make a scheme (the “membership scheme”) relating to the removal, disqualification and replacement of members of the GTCS.
- (2) The membership scheme may in particular make provision for or in connection with—
 - (a) members vacating office on the expiration of their term of office;
 - (b) the resignation of members;
 - (c) the disqualification of individuals from appointment as members; and
 - (d) the removal of members, including if the member—
 - (i) becomes insolvent;
 - (ii) is absent from meetings of the GTCS for a period specified in the scheme;
 - (iii) is otherwise unfit to be a member or unable for any reason to discharge the functions of a member;
 - (iv) changes the nature of their employment;
 - (e) the replacement of members who die, resign, are removed from, or otherwise vacate office before the expiration of their term of office; and
 - (f) the term of office of replacement members.
- (3) The GTCS may vary the membership scheme at any time.
- (4) The GTCS must publish the membership scheme in such ways as it thinks fit.

Power to amend schedule

8.—(1) The Scottish Ministers may by order made by statutory instrument modify this schedule as they think appropriate so as to amend the membership process of the GTCS.

(2) The Scottish Ministers must consult the GTCS and those other persons appearing to have an interest before making such an order.

(3) An order under this paragraph shall not be made unless a draft of the instrument has been laid before and approved by resolution of the Scottish Parliament.

SCHEDULE 3

Article 4(3)

Further provision about the GTCS

Status

1.—(1) The GTCS—

- (a) is not a servant or agent of the Crown; and
- (b) does not enjoy any status, immunity or privilege of the Crown.

(2) The property of the GTCS is not property of, or property held on behalf of, the Crown.

Convener

2.—(1) The GTCS must appoint one of its members to chair meetings of the GTCS (the “Convener”).

(2) The Convener of the GTCS has a casting vote in the proceedings of the GTCS.

(3) In the absence of the Convener, the GTCS must appoint one of its members to act as the Convener and that individual has a casting vote in the proceedings of the GTCS.

Committees

3.—(1) The GTCS may appoint such committees as it thinks fit.

(2) Any committee so appointed may appoint such sub-committees as it thinks fit.

(3) Such committees and sub-committees may consist—

- (a) wholly of members of the GTCS;
- (b) partly of members of the GTCS and partly of other persons appointed to that committee or sub-committee by the GTCS or, in the case of sub-committees, by the committee which appointed that sub-committee; or
- (c) wholly of non-members of the GTCS appointed to that committee or sub-committee by the GTCS or, in the case of sub-committees, by the committee which appointed that sub-committee.

(4) The GTCS must make a scheme (the “committee scheme”) relating to the structure, membership, role and operation of its committees and sub-committees.

(5) The committee scheme may in particular make provision for or in connection with—

- (a) the number of committees;
- (b) the functions, duties and powers of committees;
- (c) the procedure of committees;

- (d) the regulation of the proceedings of, and the quorum at, committees;
 - (e) the composition of committees; and
 - (f) the membership arrangements for committees, including arrangements for the appointment to committees of persons who are not members of the GTCS.
- (6) In sub-paragraph (5)(a) to (f) “committees” includes “sub-committees”.
- (7) The GTCS may vary the committee scheme at any time.
- (8) The GTCS must publish the committee scheme, in such ways as it thinks fit.

Validity of Proceedings and Actions

4.—(1) The validity of proceedings or actions of the GTCS (including proceedings or actions of any of its committees) is not affected by—

- (a) any vacancy in the membership of the GTCS or any of its committees;
 - (b) any defect in the election or appointment of a member of the GTCS or any of its committees; or
 - (c) the disqualification of an individual as a member of the GTCS after appointment or election.
- (2) In this paragraph “committees” includes “sub-committees”.

Reports

5.—(1) The GTCS must, as soon as is reasonably practical after the end of each financial year, prepare and lay before the Scottish Parliament a report on the carrying out of its functions during the year.

- (2) The GTCS may include in the report any other information that it considers appropriate.
- (3) In this paragraph “financial year” means each period of a year ending on 31st March.
- (4) The GTCS must periodically prepare and publish, in such ways as it thinks fit, a strategic plan.
- (5) The GTCS must periodically prepare and publish, in such ways as it thinks fit, a diversity action plan.

Standing Orders

6. The GTCS may make, and publish, standing orders for—
- (a) the regulation of its proceedings and the quorum at such proceedings;
 - (b) the keeping of records;
 - (c) the execution of documents; and
 - (d) such other matters connected with or related to the conduct of the GTCS’s business as the GTCS thinks fit.

Accounts

- 7.—(1) The GTCS must—
- (a) keep proper accounts and accounting records;
 - (b) prepare for each financial year a statement of accounts;
 - (c) publish each statement of accounts in such ways as it thinks fit; and

(d) have its accounts independently audited each financial year by auditors appointed by the GTCS.

(2) In this paragraph, “financial year” means each period of a year ending on 31st March.

Remuneration, allowances etc.

8.—(1) The GTCS may pay to its members—

- (a) such remuneration as it may determine;
- (b) such allowances in respect of expenses properly incurred by members in the performance of their functions as it may determine.

(2) The GTCS may pay to members’ employers such allowances as it may determine, in respect of expenses incurred by the employer in consequence of members’ performance of their functions.

(3) The GTCS may—

- (a) pay to or in respect of any individual who is or has been a member of the GTCS such pension, allowance or gratuity as it may determine; or
- (b) make such payments as it may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such an individual.

(4) Where—

- (a) an individual ceases to be a member of the GTCS otherwise than on the expiry of the individual’s term of office; and
- (b) it appears to the GTCS that there are circumstances which make it right for the individual to receive compensation,

then the GTCS may make a payment to the individual as it may determine.

(5) In sub-paragraphs (1) and (2) “members” includes individuals who are appointed to committees or sub-committees under paragraph 3(3)(b) and (c).

Staff

9.—(1) The GTCS may employ any staff necessary to ensure the carrying out of the GTCS’s functions.

(2) Staff are employed on terms and conditions determined by the GTCS.

(3) The GTCS may—

- (a) pay a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible individual;
- (b) make payments towards the provision of a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible individual;
- (c) provide and maintain schemes (whether contributory or not) for the payment of a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible individual.

(4) The GTCS may determine—

- (a) who, of the individuals who are or have ceased to be employees of the GTCS, are to be eligible individuals; and
- (b) the amount that may be paid or provided for.

Grants and loans

10.—(1) The Scottish Ministers may make such grants to the GTCS as they determine.

(2) A grant is made subject to any conditions specified by the Scottish Ministers (including conditions about repayment).

(3) The Scottish Ministers may make such loans to the GTCS as they determine.

(4) A loan is made subject to any conditions specified by the Scottish Ministers (including conditions about repayment).

Delegation of the GTCS's functions

11.—(1) Any function of the GTCS (whether conferred by virtue of this Order or any other enactment), other than its functions of making rules or schemes by virtue of this Order, may be carried out on its behalf by—

- (a) a member of the GTCS;
- (b) a committee or sub-committee of the GTCS;
- (c) an individual employed by the GTCS.

(2) Nothing in sub-paragraph (1) prevents the GTCS from carrying out any function delegated under that sub-paragraph.

SCHEDULE 4

Article 18(4)

Fitness to teach: further provision

GTCS rules on fitness to teach

1.—(1) The GTCS rules may make provision about the circumstances in which, and the manner in which, an individual's fitness to teach may be investigated.

(2) The GTCS rules may also—

- (a) allow the GTCS to—
 - (i) impose conditions on the registration of an individual in relation to an investigation of the individual's fitness to teach;
 - (ii) record reprimands on the entry of an individual whose fitness to teach has been investigated;
- (b) require the GTCS, if requested to do so by the individual affected, to review any decision—
 - (i) to act as mentioned in sub sub-paragraph (a), or
 - (ii) to remove from the register under article 18(2)(b) any individual whose entry in the register is provisional;
- (c) provide that such a decision is not to take effect until the period for requesting the review has ended or, as the case may be, the review has been concluded;
- (d) make provision about the circumstances, and the manner, in which an individual removed from the register on grounds of being unfit to teach may be re-registered.

(3) The GTCS rules relating to fitness to teach have effect only if approved by the Lord President.

Proceedings

2.—(1) The GTCS may hold proceedings in respect of—

- (a) an investigation of an individual's fitness to teach;

- (b) a review carried out in pursuance of paragraph 1(2)(b).
- (2) The GTCS rules must set out the procedure, the standard of proof and the rules of evidence which are to apply to such proceedings;
- (3) The GTCS rules may specify any exceptional circumstances in which such proceedings are not to be held in public (for example, proceedings relating to individuals whose entry in the register is provisional).
- (4) The GTCS may administer oaths or affirmations for the purposes of such proceedings.
- (5) The Court of Session may, on an application by any party to such proceedings—
 - (a) order any person to attend proceedings in order to give oral evidence;
 - (b) order any person to disclose documents or other evidence to the GTCS;
 - (c) authorise the taking of evidence from any person or the examination of any documents or other evidence held by any person.
- (6) But the Court of Session may not order a person to give any evidence, or to disclose anything, which the person would be entitled to refuse to give or disclose in an action in that court.

Legal assessor

- 3.—(1) The GTCS must appoint a legal assessor to advise it on questions of law arising in proceedings held under paragraph 2.
- (2) A legal assessor must be an advocate or solicitor of not less than 10 years' standing.
- (3) A legal assessor—
 - (a) may be appointed generally or for particular proceedings or types of proceeding;
 - (b) is to be remunerated by the GTCS at such rates as it may determine;
 - (c) otherwise holds and vacates office in accordance with the instrument appointing the legal assessor.
- (4) The Lord President may, by statutory instrument, make rules relating to the functions of legal assessors.
- (5) Those rules may, in particular—
 - (a) contain provision for ensuring that every party to proceedings is informed of the legal assessor's advice to the GTCS;
 - (b) require the GTCS to inform every party to proceedings of any case where it does not accept the legal assessor's advice;
 - (c) contain such incidental and supplementary provisions as the Lord President considers expedient.
- (6) The Statutory Instruments Act 1946(6) applies to any such statutory instrument as if the instrument had been made by a Minister of the Crown.

(6) 1946 c.36; relevantly modified by S.I. 1999/1096.

SCHEDULE 5

Article 32

Transitional and savings provisions

The Teachers (Education, Training and Recommendation for Registration) (Scotland) Regulations 1993

1. Despite the revocation of regulation 3 of the Teachers (Education, Training and Recommendation for Registration) (Scotland) Regulations 1993⁽⁷⁾ (“the 1993 Regulations”), any determination made under regulation 3 continues to have effect until the GTCS makes a corresponding determination under article 29 of this Order or the Scottish Ministers make a corresponding determination under article 30 of this Order.

2. Despite the revocation of regulation 4 of the 1993 Regulations, any determination and approval made under regulation 4 continues to have effect until the GTCS makes a corresponding determination under article 29 of this Order or the Scottish Ministers make a corresponding determination under article 30 of this Order.

3. Despite the revocation of regulation 5 of the 1993 Regulations, regulation 5 continues to have effect in relation to persons who have performed the work of a course complying with the requirements of regulation 4 of the 1993 regulations.

4. Despite the revocation of regulation 6 of the 1993 Regulations, regulation 6 continues to have effect in relation to the requirements for recommendation for registration until such time as the GTCS sets corresponding requirements in the GTCS rules.

Investigations in progress under section 10B of the 1965 Act

5.—(1) This paragraph applies to a preliminary investigation under section 10B⁽⁸⁾ of the 1965 Act that is still in progress on 2nd April 2012.

(2) Any action or decision taken by the Investigating Sub-committee prior to 2nd April 2012, will, on and after 2nd April 2012, be treated as if it were an action or decision by the GTCS under Schedule 4 to this Order.

Cases in progress before the Disciplinary Sub-committee

6.—(1) This paragraph applies where a case is still in progress on 2nd April 2012 under section 10C⁽⁹⁾ or 11⁽¹⁰⁾ of the 1965 Act.

(2) Where a case is, prior to 2nd April 2012, being considered by the Disciplinary Sub-committee under section 10C or 11(1) or (2) of the 1965 Act, that case must, on and after 2nd April 2012, be considered by the GTCS under Schedule 4 of this Order.

Persons with right to apply for variation or revocation of conditions under section 11(4) of 1965 Act

7.—(1) This paragraph applies to a person in relation to whom a conditional registration order has been made and who has, prior to 2nd April 2012, a right to apply to the Professional Conduct Committee for a determination under section 11(4) of the 1965 Act.

(7) [S.I. 1993/2732](#), amended by [S.S.I. 2004/390](#).

(8) Section 10B was inserted by section 50 of the [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), and amended by paragraph 3 of Schedule 4 to the [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#).

(9) Section 10C was inserted by section 50 of the [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#).

(10) Section 11 was substituted by section 50 of the [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), and amended by paragraph 4 of Schedule 4 to the [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#).

(2) Despite the repeal of section 11(4), that person will, on and after 2nd April 2012, have a right to apply to the GTCS for a determination under section 11(4).

(3) The GTCS is to determine an application and must give notice of the determination to the person concerned.

(4) A notice under paragraph (3) must include a statement of the reasons for the determination.

Persons to whom section 11(7) of the 1965 Act applies

8.—(1) This paragraph applies to a person in relation to whom a reprimand is marked against that person's name in the register prior to 2nd April 2012.

(2) Despite the repeal of section 11(7) of the 1965 Act, that section will continue to apply, on and after 2nd April 2012, in relation to the removal of a reprimand after the five year period referred to in that section.

Persons to whom section 11(9) of the 1965 Act applies and directions made under section 10 of the 1965 Act

9.—(1) This paragraph applies to a person to whom section 11(9) of the 1965 Act applies immediately prior to 2nd April 2012 and who is not entitled to be registered or re-registered except in compliance with a direction of the Disciplinary Sub-committee.

(2) Despite the repeal of section 11(9), that section continues to apply, on and after 2nd April 2012, to such a person as if the reference to the Disciplinary Sub-committee was a reference to the GTCS.

(3) The GTCS, in considering a direction in the circumstances described in section 11(9), is to take into account any existing prohibition imposed by the Disciplinary Sub-committee under section 11(10).

(4) Despite the repeal of section 11(10), that section continues to apply, on and after 2nd April 2012, to any existing prohibition under that section.

Entries to which section 11A of the 1965 Act applies

10.—(1) This paragraph applies to an entry in the register established under the 1965 Act which is marked as suspended before 2nd April 2012.

(2) Despite the repeal of section 11A(11) of the 1965 Act, that section continues to apply, on and after 2nd April 2012, in relation to the cancellation of the suspension where there is no direction for the removal of the entry from the register following the conclusion of the case to which that suspension relates.

(3) Despite the substitution of “restricted” for “suspended” in regulation 4(2) of the Requirements for Teachers (Scotland) Regulations 2005(12), that regulation shall continue to apply to such an entry, on and after 2nd April 2012, as if that substitution were not made.

(4) For the purposes of this paragraph, any reference to a Committee or Sub-committee, where relevant to the cancellation of the suspension, is to be read as a reference to the GTCS and the requirements to serve a notice under section 11A(2) of the 1965 Act apply to the GTCS.

(11) Section 11A was inserted by section 50 of the [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#).

(12) [S.S.I. 2005/355](#).

Appeals

11.—(1) Where, before 2nd April 2012, a person has a right to appeal under section 12(1) of the 1965 Act, but has not yet lodged an appeal, that person will, on and after 2nd April 2012, have a right to appeal under article 24 of this Order.

(2) The right to appeal in circumstances described in sub-paragraph (1) may only be exercised within the period of 28 days after the service of notice of the direction in question.

Review

12.—(1) Despite the repeal of section 12(1A)(**13**) of the 1965 Act, a person with a right to require a review under that sub-section immediately prior to 2nd April 2012, will, on and after 2nd April 2012, have a right to require the GTCS to carry out a review.

(2) The right to require the GTCS to carry out a review is to be exercised within the prescribed number of days referred to in section 12(1A) of the 1965 Act.

The Teaching Council (Scotland) (Legal Assessor) Rules 2006

13.—(1) Despite the revocation of the Teaching Council (Scotland) (Legal Assessor) Rules 2006 (“the 2006 Rules”)(**14**), those rules continue to apply, on and after 2nd April 2012, to proceedings under this Order as they applied to proceedings under the 1965 Act until the Lord President makes rules relating to the functions of legal assessors under paragraph 3 of Schedule 4 to this Order.

(2) In the 2006 Rules, any reference to a Committee of the GTCS is to be read as a reference to the GTCS.

SCHEDULE 6

Article 33(1)

Minor and Consequential Amendments

Primary legislation

Education (Scotland) Act 1980

1.—(1) The 1980 Act(**15**) is amended as follows.

(2) In paragraph (a) of sub-section (6) of section 105 (schemes for reorganisation of educational endowments) for “Teaching Council (Scotland) Act 1965” substitute “Public Services Reform (General Teaching Council for Scotland) Order 2011”.

(3) In the definition of “registered teacher” in sub-section (1) of section 135 (interpretation) for “Teaching Council (Scotland) Act 1965” substitute “Public Services Reform (General Teaching Council for Scotland) Order 2011”.

Protection of Vulnerable Groups (Scotland) Act 2007

2.—(1) The Protection of Vulnerable Groups (Scotland) Act 2007(**16**) is amended as follows.

(13) Section 12(1A) was inserted by section 51(1) of the Standards in Scotland’s Schools etc. Act 2000.

(14) S.S.I. 2006/455.

(15) 1980 c.44.

(16) 2007 asp 14.

(2) In paragraph (a) of sub-section (3) of section 8 (meaning of “relevant functions”) for “Teaching Council (Scotland) Act 1965 (c.19)” substitute “Public Services Reform (General Teaching Council for Scotland) Order 2011”.

(3) In sub-section (c) of section 73 (consideration of suitability) for “section 6 of the Teaching Council (Scotland) Act 1965 (c.19)” substitute “registration under the Public Services Reform (General Teaching Council for Scotland) Order 2011”.

Secondary legislation

The Colleges of Education (Scotland) Regulations 1987

3. In regulation 25(7) of the Colleges of Education (Scotland) Regulations 1987(17) (employment of staff) for “under section 6 of the Teaching Council (Scotland) Act 1965” substitute “in the register of teachers kept under the Public Services Reform (General Teaching Council for Scotland) Order 2011”.

The Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999

4. In paragraph 23 of section 3 of Schedule 1 to the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999(18) for “Teaching Council (Scotland) Act 1965” substitute “Public Services Reform (General Teaching Council for Scotland) Order 2011”.

The Scottish Social Services Council (Consultation on Codes of Practice) Order 2001

5. In article 2(j) of the Scottish Social Services Council (Consultation on Codes of Practice) Order 2001(19) (consultation on codes of practice) for “section 1 of the Teaching Council (Scotland) Act 1965” substitute “the Public Services Reform (General Teaching Council for Scotland) Order 2011”.

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003

6. In the definition of “registered teacher” in Part 4 of Schedule 4 to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003(20) (interpretation) for “Teaching Council (Scotland) Act 1965” substitute “Public Services Reform (General Teaching Council for Scotland) Order 2011”.

The Requirements for Teachers (Scotland) Regulations 2005

7.—(1) The Requirements for Teachers (Scotland) Regulations 2005(21) are amended as follows.

(2) In regulation 4(2) (requirement to employ registered teachers)—

- (a) for “section 6 of the Teaching Council (Scotland) Act 1965” substitute “the Public Services Reform (General Teaching Council for Scotland) Order 2011”; and
- (b) for “suspended” in both places it occurs substitute “restricted”.

(17) S.I. 1987/309, to which there are amendments not relevant to this Order.

(18) S.I. 1999/2277.

(19) S.S.I. 2001/424, to which there are amendments not relevant to this Order.

(20) S.S.I. 2003/231, to which there are amendments not relevant to this Order.

(21) S.S.I. 2005/355.

SCHEDULE 7

Article 33(2)

Repeals and Revocations

Repeals of primary legislation

<i>Enactment</i>	<i>Extent of repeal</i>
The Teaching Council (Scotland) Act 1965 (c.19)	The whole Act.
The Teaching Council (Scotland) Act 1971 (c.2)	The whole Act.
Local Government (Scotland) Act 1975 (c.30)	Schedule 6, Part II, paragraph 29
Education (Scotland) Act 1981 (c.58)	Section 17. Schedule 7, paragraphs 1 and 2.
Companies Consolidation (Consequential Provisions) Act 1985 (c.9)	In Schedule 2 the entry relating to the Teaching Council (Scotland) Act 1965.
Self-Governing Schools etc. (Scotland) Act 1989 (c.39)	Schedule 10, paragraph 2.
Further and Higher Education (Scotland) Act 1992 (c.37)	Section 55. Schedule 9, paragraph 1.
Teaching and Higher Education Act 1998 (c.30)	Sections 16 and 17.
The Standards in Scotland's Schools etc. Act 2000 (asp 6)	Sections 45 to 54. In section 58(1), the definition of "the 1965 Act". Schedule 2, paragraph 1. In schedule 3, the entries in the table relating to the Teaching Council (Scotland) Act 1965.
Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)	In schedule 2, the entry in relation to the General Teaching Council for Scotland.
Protection of Children (Scotland) Act 2003 (asp 5)	Section 13.
Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4)	Schedule 3, paragraph 1.
Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)	Schedule 4, paragraphs 1, 3 and 4.

Revocations of secondary legislation

<i>Regulations</i>	<i>Reference</i>	<i>Extent of revocation</i>
The General Teaching Council (Deduction of Fees for Renewal of Registration) (Scotland) Regulations 1971	S.I. 1971/296	The whole Regulations.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Public Services Reform (General Teaching Council for Scotland) Order 2011 No. 215*

Regulations	Reference	Extent of revocation
The Teachers (Entitlement to Registration) (Scotland) Regulations 1991	S.I. 1991/1136	The whole Regulations.
The Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991	S.I. 1991/1997	Paragraph 14 of the Schedule (amendment of the Teaching Council) (Scotland) Act 1965).
The Teachers (Education, Training and Recommendation for Registration (Scotland) Regulations 1993	S.I. 1993/2732	The whole Regulations subject to the saving made in Schedule 5 to this Order.
The General Teaching Council for Scotland (Amendment of Constitution) Order 1997	S.I. 1997/207	The whole Order.
The Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999	S.I. 1999/1820	Paragraph 35 of Part I of Schedule 2. In Part IV of Schedule 2, the entry relating to the Teaching Council (Scotland) Act 1965.
The Teachers (Medical Requirements for Admission to Training and Registration (Scotland) Amendment Regulations 2004	S.S.I. 2004/390	The whole Regulations.
The General Teaching Council for Scotland Election Scheme 2004 Approval Order 2004	S.S.I. 2004/542	The whole Order.
The Teaching Council (Scotland) (Legal Assessor) Rules 2006	S.S.I. 2006/455	The whole Rules subject to the saving made in Schedule 5 to this Order.
The Companies Act 2006 (Consequential Amendments etc.) Order 2008	S.I. 2008/948	Paragraph 1(f) of Schedule 1.
The Teaching Council (Scotland) Act 1965 Modification Order 2009	S.S.I. 2009/386	The whole Order.
The Protection of Vulnerable Groups (Scotland) Act 2007 (Miscellaneous Provisions) Order 2010	S.S.I. 2010/446	Article 20 (amendment to the Teaching Council (Scotland) Act 1965).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order repeals the Teaching Council (Scotland) Act 1965 and the Teaching Council (Scotland) Act 1971, which establish the General Teaching Council for Scotland (“the GTCS”). The Order provides for the continuation of the GTCS with amendments to its functions, constitution and governance arrangements under powers in the Public Services Reform (Scotland) Act 2010.

Article 4 provides for the continuation of the GTCS, makes provision for its membership (Schedule 2) and makes further related provision about the GTCS (Schedule 3). Article 5 sets out the principal aims of the GTCS.

Article 6 confers on the GTCS functions in relation to keeping a register of teachers, standards of education and training appropriate to teachers, standards of conduct and professional competence expected of a registered teacher, investigating the fitness to teach of individuals either registered or seeking registration, keeping itself informed of the education and training of individuals training as teachers, making recommendations to the Scottish Ministers on matters relating to teachers’ education, training, career development and fitness to teach, and the supply of teachers, and keeping registers of other individuals working in educational settings. Article 7 requires the GTCS to have regard to the interests of the public when performing its functions.

The GTCS is required to perform its functions in a way which is proportionate, accountable, transparent and consistent, is targeted only where action is needed, encourages equal opportunities and is consistent with any other principles of best regulatory practice (article 8).

Article 9 grants the GTCS power to do anything appropriate for the purposes of, or in connection with, the performance of its functions.

The GTCS may give advice relating to its functions, carry out research, publish information or advice relating to its functions, and publicise matters relating to its functions (article 10).

Article 11 requires the Scottish Ministers to have regard to relevant recommendations made by the GTCS when performing their functions relating to education.

Under article 12, the GTCS must supply to the General Teaching Councils for England, Wales and Northern Ireland such information as is necessary or desirable for those Councils to have for the purposes of their statutory functions, and otherwise seek to secure co-operation with those councils so far as consistent with its functions.

Article 13 obliges those who employ registered teachers to work in an educational establishment to provide the GTCS with their names and such other information as may be reasonably required.

Article 14 enables the GTCS to organise the register in such manner as it thinks fit, and article 15 obliges the GTCS to make and publish rules governing the operation of the register, in particular in relation to the procedure for inclusion in the register and setting out registration criteria.

Article 16 provides that the GTCS must include individuals in the register if satisfied that the registration criteria are met, that the individual is not unfit to teach and that the GTCS rules, or the provision on barred individuals (article 19), do not otherwise prevent the individual from being registered.

Article 17 requires the GTCS rules on registration to make registration dependent on an individual either obtaining a recognised teaching qualification (defined in article 3), or satisfying the GTCS that the individual in question has the education, training or experience to warrant registration.

Article 18 sets out the circumstances in which the GTCS must investigate fitness to teach, and those in which it has a discretion to investigate. Where an individual is considered unfit to teach, their registration must either be refused, or they must be removed from the register. Schedule 4 makes further provision regarding fitness to teach.

An individual may not be registered if that individual is barred from regulated work with children. If a registered individual becomes barred from such work they must be removed from the register (article 19).

The GTCS has power to charge fees in relation to registration, and may make rules as to when, by whom and how fees are to be payable. They may also reduce, waive or refund fees in circumstances set out in rules. Employers of registered teachers teaching in educational establishments must, if required by the GTCS, deduct from the salary of a registered employee amounts in respect of fees, and remit those amounts to the GTCS (article 20).

Article 21 enables the GTCS to restrict temporarily an individual's registration pending conclusion of an investigation into any circumstances which on the face of it might result in removal of that individual from the register.

Article 22 allows the GTCS to make rules setting out circumstances in which an individual may be removed from the register, including failure to pay a fee and failure to notify the GTCS of a change in information. Such rules must, however, include a facility requiring the GTCS to review a decision to remove an individual from the register in these circumstances.

The GTCS is required by article 23 to notify an individual where registration has been refused because the GTCS considers them unfit to teach, because they are barred from regulated work with children, because the GTCS considers that they otherwise fail to meet the registration criteria, or where the individual's registration has been temporarily restricted. The GTCS must also notify an individual where that individual has been removed from the register because the GTCS considers them unfit to teach or considers that they no longer meet the registration criteria, or because they are barred from regulated work with children. The notice must be given as soon as reasonably practicable, provide reasons and advise the individual of their right of appeal.

Article 24 provides that an individual may appeal to the Court of Session against any decision of the GTCS in respect of which notification is required under article 23. No appeal against removal from the register or refusal to register is available where the individual is barred from regulated work with children.

Article 25 places employers of registered teachers working in educational establishments under a duty to notify the GTCS of that individual's dismissal on grounds of misconduct, incompetence, or of that individual's resignation etc. where they were at risk of dismissal on those grounds.

Article 26 grants the GTCS the power to keep other registers of other individuals working in educational settings.

Article 27 provides that it is an offence for a person knowingly to provide the GTCS or any other person with information that is false or materially misleading, where that person knows, or could reasonably be expected to know that the GTCS may use the information in connection with its functions. It is also an offence for a person to pretend with fraudulent intent to be registered. Commission of an offence attracts, on summary conviction, a fine not exceeding level 4 on the standard scale.

Article 28 requires the GTCS to consult, and have regard to the views of, a number of interest groups before establishing new standards, or changing existing standards, of education, training, conduct or professional competence appropriate to teachers.

The GTCS has responsibility for determining what constitutes a recognised teaching qualification for those seeking registration as a school teacher (article 29). The Scottish Ministers have responsibility for determining what constitutes a recognised teaching qualification for those seeking registration as a further education teacher (article 30).

Article 31 requires the GTCS to make a scheme by which it may keep itself informed about standards of education and training of registered teachers. Such a scheme may impose requirements on registered teachers, and make provision for failure to comply with such requirements.

Schedule 1 contains commencement provisions. Schedule 5 makes transitional and savings provisions. Schedules 6 and 7 contain minor and consequential amendments, and repeals and revocations, respectively.