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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 542**

**EDUCATION**

**The General Teaching Council for Scotland  
Election Scheme 2004 Approval Order 2004**

*Made* - - - - 15th December 2004  
*Laid before the Scottish  
Parliament* - - - - 16th December 2004  
*Coming into force* - - 23rd January 2005

Whereas the General Teaching Council for Scotland have, in exercise of their powers under paragraph 1(6) and (7) of Schedule 1 to the Teaching Council (Scotland) Act 1965<sup>(1)</sup> made the General Teaching Council for Scotland Election Scheme 2004 and have submitted it to the Scottish Ministers for approval:

Now therefore, the Scottish Ministers<sup>(2)</sup>, in exercise of the powers conferred by section 14(1) and paragraph 1(8) of Schedule 1 to that Act, and of all other powers enabling them in that behalf hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the General Teaching Council for Scotland Election Scheme 2004 Approval Order 2004, and shall come into force on 23rd January 2005.

**Approval**

2. The General Teaching Council for Scotland Election Scheme 2004, which is set out in the Schedule to this Order, is hereby approved.

**Revocation**

3. The General Teaching Council (Scotland) Election Scheme 2001 Approval Order 2001<sup>(3)</sup> is hereby revoked.

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(1) 1965 c. 19; Schedule 1 was amended by the [Standards in Scotland's Schools etc. \(Scotland\) Act 2000 \(asp 6\)](#), section 46.  
(2) The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).  
(3) S.S.I. 2001/18.

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St Andrew's House, Edinburgh  
15th December 2004

*PETER J PEACOCK*  
A member of the Scottish Executive

## SCHEDULE

### THE GENERAL TEACHING COUNCIL FOR SCOTLAND ELECTION SCHEME 2004

Scheme for the Election of Registered Teachers to the General Teaching Council for Scotland, made in accordance with the terms of Schedule 1 to the Teaching Council (Scotland) Act 1965, as amended by the Standards in Scotland's Schools etc Act 2000, and to be read in conjunction with the Act.

#### Article One – Definitions

(1) In this Scheme unless the context otherwise requires:

“the Act” means the Teaching Council (Scotland) Act 1965 as amended by the Standards in Scotland's Schools etc Act 2000;

“the Council” means the General Teaching Council for Scotland constituted under section 1 of the Act;

“ballot material” means the ballot papers, information on candidates, the candidates' election statements, and the envelopes for the despatch and return of ballot papers;

“candidate” means a candidate who has been validly nominated to stand for election to the Council, and who is in good standing for the current registration period, that is who has paid the registration fee and who has not been suspended from registration;

“category of employment” means one of the categories of elected members specified in paragraph 1(2) of Schedule 1 to the Act, and any reference, in relation to a person, to election category, shall be taken as a reference to that category in which the person is employed, or if not employed as a teacher, to the category that the person has chosen or has been allocated to, for the purposes of an election, as provided for in Article Four of the Scheme;

“election” means the procedure by which the elected members of Council are elected in accordance with this Scheme;

“election year” means the year 2001 and every fourth year thereafter;

“elector” means a teacher whose name is on the register on the qualifying date, who is in good standing for the current registration period, that is, who has paid the registration fee and who has not been suspended from registration;

“employed”, in relation to a person who is a prospective candidate, means, on the qualifying date for candidates set out in Article Four below, is employed full-time in the position in question; or who, in the period of twelve months which ends with that date, has been employed in that position for not less than one fifth of the hours which would have fallen to be worked had the position been full-time;

“Independent Scrutineer” means the organisation appointed in accordance with Article Three of this Scheme;

“qualifying date” means the 31st day of May in an election year in respect of candidates for election, and the 20th day of August in an election year in respect of electors;

“register” means the register established by the Council under section 6 of the Act, and “registered” shall be construed accordingly;

“relevant institution” means an institution within the higher education sector which provides courses for the education and training of teachers;

“Returning Officer” means a person appointed as returning officer under Article Two of this Scheme and includes a Deputy Returning Officer as appointed;

“teacher” means a registered teacher, whether in employment as a teacher or not;

References to the singular include the plural and vice versa;

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References to the masculine include the feminine.

## **Article Two – Returning Officer**

(1) The Council shall appoint the Returning Officer for the election at least six months before the qualifying date, and at the same time appoint a Deputy Returning Officer, to act for the Returning Officer in the event of the Returning Officer’s absence or inability to act.

(2) The Returning Officer shall not be a teacher.

(3) The Returning Officer shall be responsible for the conduct of the election in accordance with this Scheme.

(4) The Returning Officer shall have power, subject to the approval of the Council, to employ staff necessary for the conduct of the election, and pay them out of monies provided by the Council.

(5) The Returning Officer may delegate any administrative function in the conduct of the election to the Independent Scrutineer.

(6) The Returning Officer shall be responsible for the publication, printing and distribution of the Notice of Election.

## **Article Three – Independent Scrutineer**

(1) The Council shall, by not later than the first day of March in an election year, appoint an Independent Scrutineer to supervise the conduct of the election.

(2) The Independent Scrutineer shall be responsible for the printing and distribution of the ballot material, for setting up and managing a secure Internet voting service, as appropriate, and for counting the ballot papers returned by post and votes submitted online in accordance with this Scheme.

(3) The Independent Scrutineer shall arrange for the printing and distribution of the ballot material by the most cost effective method deemed appropriate by the Returning Officer.

(4) The Returning Officer shall provide the Independent Scrutineer with sufficient financial resources as the Returning Officer thinks fit to carry out the functions described in this Article.

(5) The Council shall appoint an Independent Scrutineer who in the reasonable belief of the Returning Officer has the experience and capacity to carry out the functions set out in this regulation in a fair and competent manner.

## **Article Four – Roll of Electors**

(1) The Returning Officer shall form a roll of electors on or before the last day of March in an election year comprising the names and addresses of all teachers assigned to an election category in the register maintained by the Council who are in good standing, ie who have paid the registration fee for the current registration period, and who are not suspended from registration.

(2) The roll of electors shall record the election category to which each teacher is assigned, and no teacher shall be included on the roll of electors unless he or she has been assigned to an election category.

(3) Only persons who are employed as headteachers in primary schools or nursery schools will be entitled to stand for election and to vote in the headteachers in primary schools or nursery schools category, and only persons who are employed as headteachers in secondary schools will be entitled to stand for election and to vote in the headteachers in secondary schools category.

(4) In respect of all election categories other than those mentioned in (3) above, voting in each category is confined to teachers employed within each of those categories, subject to (5) below.

(5) A teacher who, on the qualifying date of 20th August is not employed in any category of employment may, notwithstanding, vote in one of those categories if the teacher has been employed at any time in that category or if the teacher holds a qualification which would enable the teacher to be employed in that category.

A teacher in a headteacher category no longer employed as a headteacher will require to change the election category to one of the other categories in which the teacher is employed or holds a qualification which would enable the teacher to be employed in that category.

(6) The Returning Officer may on or before the qualifying dates make additions or alterations to, or deletions from, the roll of electors or alter the election category of any teacher.

(7) No teacher may be added to the roll of electors after the qualifying dates.

#### **Article Five – Notification of Election**

(1) The Returning Officer shall notify each teacher within an election year, not later than 1st March, that an election of teachers to be members of the Council will take place later that year.

(2) The Returning Officer will, so far as is reasonably practicable, ensure that every teacher is:

- (a) informed of the election category which appears against the teacher's name on the register; and
- (b) given the opportunity to verify this category or to request that an amendment be made to it, stating the grounds for the amendment;

and the Returning Officer shall, if satisfied with the grounds for amendment, change the category in accordance with the request.

(3) The notification shall advise teachers of the date of the publication of the Notice of Election, and shall describe each of the election categories, as set out in paragraph 1(2) of Schedule 1 Part 1, and shall include an invitation to teachers to stand for election and to obtain election details from the Returning Officer.

#### **Article Six – Notice of Election**

(1) The Returning Officer shall, by no later than the 30th day of April in an election year, publish a Notice of Election.

(2) The Notice of Election shall specify the following information:

- (a) the number of teachers to be elected to the Council for each election category;
- (b) an address (including website address) from which a nomination paper for the election may be obtained;
- (c) an address (including website address) from which the Scheme governing the election may be obtained;
- (d) the name and address of the Independent Scrutineer and an outline of the function of the Independent Scrutineer as set out in Article Three;
- (e) the name and address of the person to whom the nomination papers shall be returned;
- (f) the latest date and time by which nomination papers and election statements shall be received;
- (g) the date upon which the ballot papers for the election shall be distributed;
- (h) the date and time by which the ballot papers and/or online votes for the election shall be received by the Independent Scrutineer;
- (i) the date upon which the result of the election shall be announced; and

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(j) any other information which the Returning Officer may deem to be appropriate.

(3) The Notice of Election shall be published on the Council's website, and in two or more newspapers circulating in Scotland, and in such professional journals as the Returning Officer shall determine.

#### **Article Seven – Qualification of Candidates and Electors**

(1) Candidates

(a) Only teachers employed on a whole-time basis, or on a part-time basis equivalent to not less than one-fifth of full-time in the period of twelve months prior to the qualifying date in a Scottish school shall be eligible to be nominated for election, in the category in which employed and which corresponds with the election category appearing against the candidate's name on the register on 31st May in an election year.

(2) Electors

(a) An elector must be a teacher whose name is on the register on 20th August in an election year.

(b) Only electors who are themselves headteachers are entitled to vote in respect of headteacher categories.

(c) An elector is eligible to vote only in the election category entered against the elector's name in the register at the qualifying date of 20th August.

#### **Article Eight – Nomination**

(1) To become a candidate in the election a teacher shall be supported in writing on a nomination paper by:

- (a) a proposer;
- (b) a seconder, and
- (c) five additional teachers,

each of whom must appear on the roll of electors and, at the date upon which they have signed the nomination paper, have the same election category entered against their name as the teacher whose nomination paper they have signed.

(2) Nominations shall be made on the nomination paper provided by the Returning Officer at the address specified in the Notice of Election.

(3) Each nomination paper shall be used to nominate one teacher only.

(4) Any person having the requisite qualifications for nominating or supporting a candidate may nominate or support any number of candidates not exceeding the number to be elected.

(5) The nomination paper shall state:

- (a) the full name and date of birth of the proposed candidate;
- (b) the Registration Number of the proposed candidate;
- (c) the full postal address which appears against the proposed candidate's name on the register;
- (d) the election category in which the proposed candidate wishes to stand for election, and which appears against the proposed candidate's name in the register;
- (e) details of the proposed candidate's employment as a teacher, ie post held and date of appointment, name and full postal address of the educational establishment in which employed, academic, professional and technical qualifications held, teaching qualifications held;

- (f) the names, registration numbers and register addresses of
    - (i) the proposer,
    - (ii) the seconder, and
    - (iii) the five additional teachers supporting the nomination;
  - (g) a contact telephone number and, if available, a contact e-mail address for the proposed candidate;
  - (h) the name and address of the person to whom the nomination paper shall be returned and the time and date by which it shall be received;
  - (i) the e-mail address of the person to whom the typed election statement and passport size photograph of the candidate specified under Article Eight (13), if being supplied electronically, shall be returned;
  - (j) any other information that the Returning Officer may deem to be appropriate.
- (6) The nomination paper shall be signed and dated by the proposed candidate stating:
- (a) that the proposed candidate is eligible to stand for election in accordance with the Scheme, and
  - (b) that the proposed candidate is willing to be a candidate in the election and to serve as a member of the Council if elected.
- (7) The nomination paper shall also be signed and dated by the proposer, the seconder and the five additional teachers who are supporting the proposed candidate's nomination.
- (8) A nomination paper shall be received by the Returning Officer at the address specified in the Notice of Election notice by noon on the qualifying date.
- (9) Any nomination paper received after noon on the qualifying date shall be ruled invalid and the Returning Officer's decision in this respect shall be final.
- (10) The Returning Officer shall, within seven days of the qualifying date, send by Recorded Delivery Post to all validly nominated teachers, the names of the other nominated candidates the Returning Officer has declared valid in their election category.
- (11) A candidate may, on written notice to the Returning Officer to be received by noon on the 20th day of June in an election year, withdraw nomination as a candidate.
- (12) A nomination may not be withdrawn after noon on the 20th day of June in an election year.
- (13) A candidate is permitted to provide the Returning Officer with a typed election statement and a passport size photograph of the candidate that shall be circulated to all teachers entitled to vote in the election category for which he is a candidate. If possible, these items should be supplied electronically to the Returning Officer either on disk or by e-mail at the e-mail address detailed in the nomination paper.
- (14) An election statement shall not exceed 100 words and contain no other material.
- (15) The election statement and photograph shall be received by the Returning Officer by noon on the qualifying date. Any election statement or photograph received after that time on that date shall not be circulated.
- (16) The Returning Officer shall have the right to edit any election statement if it exceeds the permitted number of words, or because it does not provide clarity, or it contains statements which are intended to deceive or are of a defamatory or offensive nature.
- (17) Where, in the opinion of the Returning Officer, a teacher's nomination is invalid the Returning Officer shall immediately, and no later than the 6th day of June, notify the teacher to that

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effect in writing by recorded postal delivery stating the reasons why the nomination is considered to be invalid.

(18) Any question arising as to the validity of a teacher's nomination shall be determined by the Returning Officer.

#### **Article Nine – Conduct of the Election**

(1) The election of the teacher members of the Council shall be conducted in the manner set out below.

(2) If the number of duly and properly nominated candidates in a category does not exceed the number of persons to be elected in that category, the Returning Officer shall immediately declare all of the candidates to be elected.

(3) If the number of duly and properly nominated candidates in a category exceeds the number of candidates to be elected in that category, the Independent Scrutineer shall prepare a ballot paper for each election category for distribution to the teachers on the register in each election category and shall cause sufficient numbers of such ballot papers to be printed as required.

(4) The Independent Scrutineer shall prepare a document for each election category containing the following information in respect of each candidate in that election category for distribution to the teachers in each election category and shall cause sufficient numbers of each to be printed as required:

- (a) Name
- (b) Post held at 31st May
- (c) Educational establishment in which employed on 31st May
- (d) Academic, professional, technical and teaching qualifications held
- (e) Election statement and photograph of each candidate, where supplied in accordance with Article Eight above.

(5) By the first day of September in an election year the Independent Scrutineer shall despatch (including, where appropriate, the provision of electronic access as under Article Ten (4)) to each eligible teacher whose name is entered on the register at the qualifying date:

- (a) a ballot paper for the election category in which that teacher is entitled to vote prepared in accordance with this Article;
- (b) an election statement document for the election category in which that teacher is entitled to vote prepared in accordance with this Article;
- (c) instructions as to how to vote, including, as appropriate, details of where the ballot paper should be returned by post and/or of internet access for the submission of a vote online, and advising that the closing date and time for return of the ballot paper by post or receipt of a vote online is 25th September at noon; and
- (d) as appropriate, a pre-paid envelope addressed to the Independent Scrutineer for the purpose of returning the completed ballot paper by post.

#### **Article Ten – Election System and Count**

(1) The election in each category shall take place by the first past the post system.

(2) Each voter in each category shall have a number of votes equal to the number of seats in that category and shall mark against the names of the candidates delivered to the voter in accordance with Article Nine to indicate his or her preferences for the candidates up to the number of seats in the category.



(3) The Council may decide to permit eligible teachers whose names are entered on the register at the qualifying date to return their votes via an electronic voting system. The Returning Officer shall specify details of internet access for the submission of online votes and such other conditions as are necessary for compliance with this Scheme.

(4) The Council may request teacher electors to register:

- (a) whether they wish to receive electronic access to the ballot paper and election statement or to receive these by post; and
- (b) an intent to vote online or by post.

The date for the pre-registering of the above shall be determined by the Returning Officer in consultation with the Independent Scrutineer.

Only teacher electors pre-registering by the prescribed date shall be able to receive or access the election documentation by their chosen medium and may vote via their chosen route.

The default medium for receipt of or access to the election documentation and default voting route shall be determined in advance of the election and shall be notified by the Returning Officer to teacher electors at the time when they may be requested to pre register their preference.

(5) Each voter shall place the completed ballot paper in the reply envelope provided and post it or shall submit an online vote so that it shall be received by the Independent Scrutineer not later than noon on the 25th day of September in an election year.

(6) No teacher may vote by more than one voting method in any election.

(7) After the last date for the receipt of ballot papers and online votes the Independent Scrutineer shall determine the validity of each ballot paper and online vote received and shall proceed to conduct the election in accordance with this Article.

(8) A valid ballot paper or online vote shall be one on which any number of votes up to the number of seats in the category are clearly and unambiguously expressed.

In addition the Independent Scrutineer may require such evidence as that organisation thinks fit in order to be satisfied that a vote returned via the internet is valid.

(9) By not later than the 30th day of September in an election year the Independent Scrutineer shall provide the Returning Officer with a certified report specifying the following particulars:

- (a) the total number of ballot papers distributed in each election category;
- (b) the total number of valid ballot papers and/or online votes received in each election category;
- (c) the total number of invalid ballot papers and/or online votes received in each election category;
- (d) the names of the candidates who have been elected in each election category; and
- (e) an ordered list of the non-elected candidates of each election category in which the name of the first runner-up appears at the top of the list and the name of the last runner-up appears at the bottom of the list.

(10) The certified report shall be signed on behalf of the Independent Scrutineer by a duly authorised officer and shall be accompanied by a result sheet for each election category detailing the votes credited to each candidate at each stage of the election count.

#### **Article Eleven – Postal or Online Services Disruption**

(1) In the event of a disruption to postal services or online services at the distributing/receiving end at any stage, the Returning Officer may extend the deadline by which nomination papers, ballot papers and online votes shall be returned, at the Returning Officer's discretion.

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## **Article Twelve – Notice and Publication of Results of Election**

- (1) The Returning Officer shall:
  - (a) forthwith give to every person elected notice in writing of the candidate's election and shall furnish the Chief Executive/Registrar of the Council with a list of the persons certified by the Independent Scrutineer to be duly elected;
  - (b) publish the names and addresses of the elected candidates in the same newspapers and other periodicals as those in which the election notice was published under Article Six (3) of this Scheme.

## **Article Thirteen – Powers of Returning Officer**

(1) Any question arising with regard to the validity of a nomination or a ballot paper or otherwise in connection with any election shall be determined by the Returning Officer.

(2) No election shall be invalidated by reason of misdescription or non-compliance with the provisions of this Scheme, or by reason of any miscount or of the non-delivery, loss or miscarriage in the course of post or online submission, if the Returning Officer certifies in writing that the election was conducted substantially in accordance with the provisions of this Scheme and if the result of such misdescription, non-compliance, miscount, non-delivery, loss or miscarriage did not affect the result of the election, provided that any unsuccessful candidate or agent appointed by a candidate may within fourteen days after the declaration by the Returning Officer of the result of the election appeal to the Council against a certificate given by the Returning Officer under this sub-paragraph and the decision of the Council shall be final.

(3) The identification envelopes, ballot papers and online votes shall be destroyed by the Independent Scrutineer on the expiry of one calendar month from the date of the declaration of the election unless there shall have been an appeal as provided for under sub-paragraph (2) above, in which event the Council shall order the destruction of the said envelopes, ballot papers, and online votes as soon as may be after the appeal is disposed of.

## **Article Fourteen – Secrecy of Ballot**

(1) The Independent Scrutineer and every person employed in connection with the election, shall maintain and aid in maintaining the secrecy of the ballot and shall not communicate to any persons any information as to the manner in which any elector has recorded his vote.

## **Article Fifteen – Revocation**

- (1) The General Teaching Council for Scotland Election Scheme 2001 is hereby revoked.

*Norma Anne Watson*  
Convener of Council

Clerwood House  
96 Clermiston Road  
Edinburgh  
EH12 6UT  
8th December 2004

*Matthew M MacIver*  
Chief Executive/Registrar of the Council

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### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order approves the General Teaching Council for Scotland Election Scheme 2004 (“the Scheme”). The Scheme revokes the General Teaching Council for Scotland Election Scheme 2001 and details new rules in connection with the elections for members of the General Teaching Council for Scotland.

The main change in the election system is the power of the Council to permit electronic voting (Articles 10 and 11).

The following matters are dealt with in the Scheme–

Definitions (Article 1), Returning Officer (Article 2), Independent Scrutineer (Article 3), Roll of Electors (Article 4), Notification of Election (Article 5), Notice of Election (Article 6), Qualification of Candidates and Electors (Article 7), Nomination (Article 8), Conduct of Election (Article 9), Election System and Count (Article 10), Postal or Online Services Disruption (Article 11), Notice and Publication of Results of Election (Article 12), Powers of Returning Officer (Article 13), Secrecy of Ballot (Article 14) and Revocation (Article 15).

This Order also revokes the General Teaching Council (Scotland) Election Scheme 2001 Approval Order ([S.S.I. 2001/18](#)).