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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2011 No.**

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

**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(1)—

- (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.

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(1) [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.

## 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;
    - (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.