



# Education Act 2011

## 2011 CHAPTER 21

### PART 3

#### SCHOOL WORKFORCE

##### *Abolition of the General Teaching Council for England*

#### **7 Abolition of the General Teaching Council for England**

- (1) Section 1 of THEA 1998 (the General Teaching Council for England) is amended as follows.
- (2) For subsection (1), substitute—
  - “(1) In this Act, “the Council” means the General Teaching Council for Wales (see section 8).”
- (3) For subsection (3), substitute—
  - “(3) The functions conferred on the Council by or under this Chapter are exercisable by them only in relation to Wales.”
- (4) Omit subsection (10).
- (5) For the heading, substitute “Aims and constitution of the Council”.

#### **8 Functions of Secretary of State in relation to teachers**

- (1) In Part 8 of EA 2002 (teachers), after section 141 insert—

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*Status: This is the original version (as it was originally enacted).*

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*“Teacher misconduct etc: England*

**141A Teachers to whom sections 141B to 141E apply**

- (1) Sections 141B to 141E apply to a person who is employed or engaged to carry out teaching work at—
- (a) a school in England,
  - (b) a sixth form college in England,
  - (c) relevant youth accommodation in England, or
  - (d) a children’s home in England.
- (2) In subsection (1)—
- “children’s home” has the same meaning as in the Care Standards Act 2000;
- “teaching work” means work of a kind specified in regulations under this section (and such regulations may make provision by reference to specified activities or by reference to the circumstances in which activities are carried out).

**141B Investigation of disciplinary cases by Secretary of State**

- (1) The Secretary of State may investigate a case where an allegation is referred to the Secretary of State that a person to whom this section applies—
- (a) may be guilty of unacceptable professional conduct or conduct that may bring the teaching profession into disrepute, or
  - (b) has been convicted (at any time) of a relevant offence.
- (2) Where the Secretary of State finds on an investigation of a case under subsection (1) that there is a case to answer, the Secretary of State must decide whether to make a prohibition order in respect of the person.
- (3) Schedule 11A (regulations about decisions under subsection (2)) has effect.
- (4) In this section—
- a “prohibition order” means an order prohibiting the person to whom it relates from carrying out teaching work;
- “teaching work” has the same meaning as in section 141A(1);
- “relevant offence”, in relation to a person, means—
- (a) in the case of a conviction in England and Wales, a criminal offence other than one having no material relevance to the person’s fitness to be a teacher, and
  - (b) in the case of a conviction elsewhere, an offence which, if committed in England and Wales, would be within paragraph (a).

**141C List of persons prohibited from teaching etc**

- (1) The Secretary of State must keep a list containing—
- (a) the names of persons in relation to whom a prohibition order has effect, and

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- (b) the names of persons who have begun, but have failed satisfactorily to complete, an induction period under section 135A in such circumstances as may be prescribed.
- (2) The Secretary of State may include on the list the name of any person who has been prohibited from teaching in Wales, Scotland or Northern Ireland that the Secretary of State thinks appropriate to include on the list.
- (3) The Secretary of State must secure that, where the name of a person is included on the list because an interim prohibition order has effect in respect of the person, there is an indication on the list to that effect.
- (4) The Secretary of State must secure that, where the name of a person is included on the list because the person has failed satisfactorily to complete an induction period under section 135A, there is an indication on the list to that effect.
- (5) The list may contain such other information in relation to the persons whose names are included on it as the Secretary of State considers appropriate.
- (6) The list must be available for inspection by members of the public.
- (7) In this section—
  - “prohibition order” has the same meaning as in section 141B;
  - “interim prohibition order” means an order made by virtue of paragraph 3 of Schedule 11A.

#### **141D Supply of information following dismissal, resignation etc**

- (1) This section applies where a relevant employer has ceased to use the services of a teacher because the teacher has been guilty of serious misconduct.
- (2) This section also applies where a relevant employer might have ceased to use the services of a teacher as mentioned in subsection (1) had the teacher not ceased to provide those services.
- (3) The employer must consider whether it would be appropriate to provide prescribed information about the teacher to the Secretary of State.
- (4) In this section—
  - “relevant employer” means—
    - (a) a local authority;
    - (b) a person exercising a function relating to the provision of education on behalf of a local authority;
    - (c) the proprietor of a school;
    - (d) a sixth form college corporation;
    - (e) a person who employs a person to teach in a children’s home or in relevant youth accommodation;
  - “education” includes vocational, social, physical and recreational training;
  - “children’s home” has the same meaning as in the Care Standards Act 2000;
  - “services” includes professional and voluntary services;
  - “teacher” means a person within section 141A(1).

**141E Supply of information by contractor, agency etc**

- (1) This section applies where arrangements have been made by a person (the “agent”) for a teacher to carry out work at the request of or with the consent of a relevant employer (whether or not under a contract) and the agent has terminated the arrangements because the teacher has been guilty of serious misconduct.
  - (2) This section also applies where the agent—
    - (a) might have terminated the arrangements as mentioned in subsection (1) had the teacher not terminated them, or
    - (b) might have refrained from making new arrangements because of the teacher’s serious misconduct had the teacher not ceased to be available for work.
  - (3) The agent must consider whether it would be appropriate to provide prescribed information about the teacher to the Secretary of State.
  - (4) In this section “relevant employer” and “teacher” have the same meanings as in section 141D.”
- (2) In EA 2002, after Schedule 11, insert—

“SCHEDULE  
11A

Section 141B

REGULATIONS ABOUT DECISIONS UNDER SECTION 141B

**Regulations: general**

- 1 The Secretary of State must make regulations in accordance with the following provisions of this Schedule.

**Procedure for decisions under section 141B(2)**

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  - (1) Regulations under paragraph 1 must make provision about the procedure to be followed by the Secretary of State in reaching a decision under section 141B(2).
  - (2) The regulations must not require a person to give evidence or produce any document or other material evidence which the person could not be compelled to give or produce in civil proceedings in any court in England and Wales.
  - (3) The regulations may make provision for any functions of the Secretary of State under section 141B to be excluded or restricted in such circumstances as may be specified in or determined under the regulations.
  - (4) The circumstances include, in particular, where the Secretary of State considers this to be appropriate taking into account the powers of the Independent Safeguarding Authority under the Safeguarding Vulnerable Groups Act 2006.

### **Interim prohibition orders**

- 3 (1) Regulations under paragraph 1 may make provision for the Secretary of State to make an interim prohibition order, pending the Secretary of State's final decision under section 141B(2).
- (2) Regulations about interim prohibition orders must provide that an interim prohibition order may be made only if the Secretary of State considers that it is necessary in the public interest to do so.
- (3) Regulations about interim prohibition orders must provide that the Secretary of State must review an interim prohibition order—
  - (a) within six months of the order being made, and
  - (b) within each subsequent six month period,if the person to whom the order relates makes an application to the Secretary of State for such a review.

### **Prohibition orders**

- 4 (1) Regulations under paragraph 1 may make provision—
  - (a) about the service on a person to whom a prohibition order relates of notice of the order and of the right to appeal against the order under paragraph 5;
  - (b) about the publication of information relating to the case of a person to whom a prohibition order relates;
  - (c) prescribing circumstances in which a person to whom a prohibition order relates may nevertheless carry out teaching work (within the meaning of section 141A).
- (2) Regulations under paragraph 1 may also make provision—
  - (a) as to the time when a prohibition order takes effect;
  - (b) allowing a person to whom a prohibition order relates to apply to the Secretary of State for the order to be set aside;
  - (c) as to the minimum period for which a prohibition order must be in effect before such an application may be made;
  - (d) as to the procedure relating to such an application.

### **Appeals against prohibition orders**

- 5 (1) Regulations under paragraph 1 must make provision conferring on a person to whom a prohibition order relates a right to appeal against the order to the High Court.
- (2) The regulations must provide that an appeal must be brought within 28 days of the person being served with notice of the prohibition order.
- (3) No appeal is to lie from any decision of the Court on such an appeal.
- (4) In this paragraph, “prohibition order” does not include an interim prohibition order made by virtue of paragraph 3.

**Supplementary provisions**

- 6 (1) Regulations under paragraph 1 may make incidental and supplementary provision, including provision—
- (a) where a prohibition order has effect in relation to a person, for the Secretary of State to serve notice of the order on the person's employer;
  - (b) requiring the employer of such a person to take such steps in consequence of the order (which may include dismissing the person) as may be prescribed;
  - (c) authorising the delegation of functions conferred by virtue of this Schedule and the determination of matters by any person or persons specified in the regulations.
- (2) Regulations under paragraph 1 may also make provision—
- (a) for the Secretary of State to make a decision in a particular case about the effect in England of an order prohibiting a person from teaching in schools in Wales, Scotland or Northern Ireland;
  - (b) about the effect in general in England of orders prohibiting a person from teaching in schools in Wales, Scotland or Northern Ireland.”

**9 Requirement for teachers in England to serve induction period**

In Part 8 of EA 2002 (teachers), after section 135 insert—

*“Induction periods: teachers in England*

**135A Requirement to serve induction period: teachers in England**

- (1) Regulations may make provision for, and in connection with, requiring persons employed as teachers at relevant schools in England, subject to such exceptions as may be provided by or under the regulations, to have satisfactorily completed an induction period of not less than three school terms in—
- (a) a relevant school,
  - (b) in such circumstances as may be prescribed, a nursery school that—
    - (i) is not maintained by a local authority, and
    - (ii) is not a special school,
  - (c) in such circumstances as may be prescribed, an independent school, or
  - (d) in such circumstances as may be prescribed, an institution within the further education sector (or an institution within the further education sector of a prescribed description).
- (2) Regulations under this section may, in particular, make provision—
- (a) as to the length of the induction period in any prescribed circumstances;
  - (b) as to periods of employment which are to count towards the induction period;

- (c) as to the number of induction periods that a person may serve, and the circumstances in which a person may serve more than one induction period;
  - (d) precluding a relevant school, in such circumstances as may be prescribed, from being one at which an induction period may be served;
  - (e) as to supervision and training during a person's induction period;
  - (f) authorising the Secretary of State to determine the standards against which a person is to be assessed for the purpose of deciding whether the person has satisfactorily completed an induction period;
  - (g) requiring the appropriate body to decide whether a person—
    - (i) has achieved those standards and has accordingly satisfactorily completed his or her induction period, or
    - (ii) should have his or her induction period extended by such period as may be determined by the appropriate body, or
    - (iii) has failed satisfactorily to complete his or her induction period;
  - (h) requiring the head teacher of a school to make a recommendation to the appropriate body as to whether a person has achieved the standards mentioned in paragraph (f);
  - (i) requiring the appropriate body to inform the Secretary of State of any decision under paragraph (g);
  - (j) requiring the employer of a person employed as a teacher at a relevant school to secure—
    - (i) the termination of that person's employment as a teacher, or
    - (ii) that the person only undertakes such teaching duties as may be determined in accordance with the regulations,in such circumstances following a decision that the person has failed satisfactorily to complete his or her induction period as may be prescribed;
  - (k) authorising or requiring the appropriate body to exercise such other functions as may be prescribed (which may include functions with respect to the provision of assistance to schools or to institutions within the further education sector or of training for teachers);
  - (l) authorising the appropriate body in such circumstances as may be prescribed to make such reasonable charges in connection with the exercise of its functions under the regulations as it may determine;
  - (m) requiring any person or body exercising any prescribed function under the regulations to have regard to any guidance given from time to time by the Secretary of State as to the exercise of that function.
- (3) Regulations under subsection (1)(d) may, in particular—
- (a) provide that an induction period may not be begun without approval of the appropriate body for the serving of that induction period;
  - (b) provide for approval to be general or specific;
  - (c) make provision (including transitional provision) about the withdrawal of approval;
  - (d) impose conditions or limitations on the appropriate body's power to give or withhold approval.
- (4) In this section—

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“the appropriate body” means such person or body (including a local authority) as may be prescribed by, or determined by the Secretary of State in accordance with, regulations under this section (and such regulations may provide for an appropriate body which is not a local authority to include a representative of such an authority);

“relevant school” means a school maintained by a local authority or a special school not so maintained.

- (5) In the application of this section to an institution within the further education sector—
- (a) a reference to a school term is to be read as a reference to a term of the institution;
  - (b) a reference to the head teacher of a school is to be read as a reference to the principal of the institution.

### **135B Induction periods: appeals**

- (1) Regulations under section 135A must include provision conferring on a person aggrieved by a decision under subsection (2)(g) of that section a right to appeal against the decision to the Secretary of State.
- (2) A decision on an appeal made by virtue of subsection (1) is to be final.
- (3) Regulations under section 135A made in pursuance of subsection (1) may make provision for, or for the determination in accordance with the regulations of, such matters relating to appeals as the Secretary of State considers necessary or expedient.

### **135C Induction periods: supplementary**

- (1) During the induction period which a person is required to serve by virtue of regulations under section 135A, the provisions of section 131 (appraisal of teachers' performance) and regulations under that section do not apply to the person.
- (2) Where, in accordance with a requirement imposed by virtue of subsection (2)(j)(ii) of section 135A, a teacher employed at a school maintained by a local authority—
  - (a) continues to be employed at the school, but
  - (b) is not undertaking his or her normal teaching duties there,
 any costs incurred by the local authority in respect of the teacher's emoluments are not to be met from the school's budget share for any funding period except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.

Nothing in this subsection applies to a maintained school at any time when the school does not have a delegated budget.

- (3) In subsection (2)—
  - (a) the references to a school's budget share and to a school not having a delegated budget have the same meaning as in Part 2 of the School Standards and Framework Act 1998;



- (b) “funding period”, in relation to a school’s budget share, has the same meaning as in that Part.
- (4) Sections 496 and 497 of the Education Act 1996 (default powers of Secretary of State) have effect in relation to the duties imposed and powers conferred by virtue of section 135A as if the bodies to which those sections apply included—
  - (a) the governing body of a special school that is not maintained by a local authority;
  - (b) the governing body (within the meaning given by section 90(1) of the Further and Higher Education Act 1992) of an institution within the further education sector;
  - (c) the appropriate body (within the meaning of section 135A).”

## **10 Abolition of the GTCE: transitional provision**

- (1) Subsections (2) to (9) apply to a disciplinary order made by the General Teaching Council for England (“the Council”) by virtue of Schedule 2 to THEA 1998 that is in force immediately before the commencement date.
- (2) A prohibition order is to be treated, after the commencement date, as if it were a prohibition order made by the Secretary of State under section 141B of EA 2002.
- (3) A conditional registration order is to continue in force for the period during which any condition specified in the order has effect, or, if any condition specified in the order has effect without limit of time, until such time as the order is revoked.
- (4) A suspension order is to continue in force until the later of—
  - (a) the end of the suspension period specified in the order, and
  - (b) the date on which the person to whom the order relates has complied with any condition specified in the order by virtue of paragraph 4(2) of Schedule 2 to THEA 1998.
- (5) Where a conditional registration order remains in force after the commencement date by virtue of subsection (3), sub-paragraphs (1) to (3) of paragraph 3 of Schedule 2 to THEA 1998 continue to apply to the order, but with the modification specified in subsection (6).
- (6) Sub-paragraph (1) of paragraph 3 is modified so that for the words “eligible for registration under section 3” there is substituted “allowed to carry out teaching work within the meaning of section 141A of the Education Act 2002”.
- (7) Where a suspension order remains in force after the commencement date by virtue of subsection (4), sub-paragraphs (1) to (3) of paragraph 4 of Schedule 2 to THEA 1998 continue to apply to the order, but with the modifications specified in subsection (8).
- (8) Sub-paragraphs (1) and (2) of paragraph 4 are modified as follows—
  - (a) in sub-paragraph (1)—
    - (i) in paragraph (a), for the words “eligible for registration under section 3” there is substituted “allowed to carry out teaching work within the meaning of section 141A of the Education Act 2002”;
    - (ii) paragraph (b) (and the “and” preceding it) is omitted;
    - (iii) in the words following paragraph (b), for “become so eligible” there is substituted “be allowed to carry out such work”;

- (b) in sub-paragraph (2)—
  - (i) in paragraph (a), for “become eligible again for registration under section 3” there is substituted “be allowed to carry out teaching work within the meaning of section 141A of the Education Act 2002”;
  - (ii) in paragraph (b), for “become so eligible” there is substituted “be allowed to carry out such work”.
- (9) Where a conditional registration order or a suspension order remains in force after the commencement date by virtue of subsection (3) or (4)—
  - (a) any regulations under Schedule 2 to THEA 1998 that make provision about the variation or revocation of disciplinary orders continue to apply in relation to the order, but those regulations have effect as if functions conferred on the Council (or a committee of the Council) by the regulations had been transferred to the Secretary of State;
  - (b) regulations under paragraph 6 of Schedule 2 to THEA 1998 (appeals against disciplinary orders to High Court) continue to apply;
  - (c) the Secretary of State may consider an application to vary or revoke the order.
- (10) The Secretary of State may include on the list maintained under section 141C of EA 2002 (list of persons prohibited from teaching etc) any person in relation to whom a conditional registration order or a suspension order is in force.
- (11) Where immediately before the commencement date a teacher in England was the subject of an investigation by the Council (or a committee of the Council) by virtue of Schedule 2 to THEA 1998, the Secretary of State may continue the investigation and make a decision under section 141B of EA 2002.
- (12) In this section—
  - “the commencement date” means the date on which section 7 (abolition of the General Teaching Council for England) comes into force;
  - “disciplinary order”, “conditional registration order” and “suspension order” have the same meanings as in Schedule 2 to THEA 1998 (see paragraph 2(3)).

## **11 Abolition of the GTCE: consequential amendments**

- (1) Schedule 2 (consequential amendments) has effect.
- (2) The Secretary of State may by order make changes in consequence of sections 7 to 10 to any provision of subordinate legislation made before the date on which this Act is passed.
- (3) “Subordinate legislation” has the meaning given by section 21(1) of the Interpretation Act 1978.

## **12 Abolition of the GTCE: transfer schemes**

Schedule 3 (schemes for the transfer of staff, property, rights and liabilities from the General Teaching Council for England to the Secretary of State) has effect.