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## 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.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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.