



# Teaching Council (Scotland) Act 1965

## 1965 CHAPTER 19

An Act to provide for the establishment in Scotland of a Teaching Council; to provide for the registration of teachers, for regulating their professional training and for cancelling registration in cases of misconduct; and for purposes connected with the matters aforesaid. [2nd June 1965]

### Commencement Information

**II** Act not in force at Royal Assent see [s. 18\(3\)](#); Act wholly in force at 15.11.1968.

### *The General Council*

#### **1 Establishment of General Teaching Council for Scotland.**

- (1) There shall be a body, to be called the General Teaching Council for Scotland (in this Act referred to as “the Council”), which shall have in relation to Scotland the functions assigned to it by or under this Act.
- (2) The Council shall be constituted in accordance with Part I of Schedule 1 to this Act; and the supplementary provisions contained in Part II of that Schedule shall have effect with respect to the Council.

### *General Functions of Council*

#### **2 Standards for entry to the teaching profession.**

- (1) It shall be the duty of the Council to keep under review the standards of education, training and fitness to teach appropriate to persons entering the teaching profession and to make to the Secretary of State from time to time such recommendations with respect to those standards as they think fit.
- (2) Without prejudice to the foregoing subsection the Council may in particular make to the Secretary of State recommendations as to the conditions which, in their view,

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should be prescribed by him under <sup>F1</sup>, or determined by virtue of,] section 7 of this Act.

- (3) It shall also be the duty of the Council to consider, and make to the Secretary of State from time to time recommendations on, such other matters relating to the education, training and fitness to teach of teachers as they think fit or as may be referred to them by the Secretary of State.

#### Textual Amendments

**F1** Words inserted by Education (Scotland) Act 1981 (c. 58, SIF 41:2), s. 21, **Sch. 7 para. 1**

### 3 Supply of teachers.

It shall be the duty of the Council to consider, and make to the Secretary of State from time to time recommendations on, such matters (other than remuneration or conditions of service) relating to the supply of teachers as they think fit or as may be referred to them by the Secretary of State.

### 4 Secretary of State to have regard to recommendations.

In exercising his functions under the Education (Scotland) Acts 1939 to 1965 the Secretary of State shall have regard to any recommendations made to him by the Council under the two last foregoing sections.

VALID FROM 13/10/2000

#### <sup>F2</sup>4A Additional functions

- (1) The Scottish Ministers may by order confer or impose on the Council such additional functions as the Scottish Ministers consider it would be appropriate for the Council to discharge in connection with any of the Council's functions under this Act.
- (2) Before making an order under subsection (1) above, the Scottish Ministers shall—
- (a) consult the Council; and
  - (b) carry out such other consultation as appears to them to be appropriate.]

#### Textual Amendments

**F2** S. 4A inserted (13.10.2000) by 2000 asp 6, s. 45(3); S.S.I. 2000/361, art. 3(1), **Sch. Pt. I** (subject to transitional provisions in art. 4)

### 5 Colleges of education.

- (1) It shall be the duty of the Council—
- (a) to keep themselves informed of the nature of the instruction given in colleges of education, and
  - (b) to undertake such other functions in relation to colleges of education as may be assigned to them by the Secretary of State by regulations made under

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section 81 of the Act of 1962 [<sup>F3</sup>or section 7 of this Act] after consultation with the Council and with the governing bodies of such of those colleges as appear to him to be concerned;

and the power to make regulations conferred on the Secretary of State by the said section 81 [<sup>F3</sup>or the said section 7] shall include power to make regulations for the purposes of paragraph (b) of this subsection.

- (2) For the purposes of their duty under paragraph (a) of the foregoing subsection the Council may appoint on such terms as may be agreed persons to visit colleges of education on their behalf, and it shall be the duty of those visitors to report to the Council as to the general content and arrangement of the courses of instruction provided in the colleges of education visited by them; but no such visitor shall interfere with the giving of any instruction or with the conduct of any examination.
- (3) Where it appears to the Council (as a result of a report under the last foregoing subsection or otherwise) that any change should be made in the general content or arrangement of the courses of instruction provided in any college of education the Council may make recommendations in that behalf to the governing body of that college; and if, after consultation between the Council and the governing body, and any resulting modification by the Council of the recommendations, the governing body refuses to accept the recommendations (or, as the case may be, the recommendations as modified) the Council may report the circumstances to the Secretary of State.

#### Textual Amendments

**F3** Words inserted by [Education \(Scotland\) Act 1981 \(c. 58, SIF 41:2\)](#), **s. 17(1)**

VALID FROM 13/10/2000

#### [<sup>F4</sup>5A] **General advice and publication of advice and recommendations**

The Council may give advice of a general nature, on any matter relevant to their functions (whether or not it is a matter as respects which they may make recommendations under any other provision of this Act), to any person or body; and they may publish any such advice or recommendations.]

#### Textual Amendments

**F4** **S. 5A** inserted (13.10.2000) by [2000 asp 6, s. 45\(4\)](#); [S.S.I. 2000/361, art. 3\(1\)](#), **Sch. Pt. I** (subject to transitional provisions in [art. 4](#))

VALID FROM 13/10/2000

#### [<sup>F5</sup>5B] **Supply of information relating to teachers**

- (1) The Council shall supply to the General Teaching Council for England and the General Teaching Council for Wales such information as it is necessary or desirable

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for the Council in question to have for the purpose of carrying out any of the functions conferred on them by or under the Teaching and Higher Education Act 1998 (c.30).

- (2) Once the General Teaching Council for Northern Ireland is established, subsection (1) above shall apply in relation to that Council and to the functions conferred on them by or under the Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)) as that subsection applies in relation to, and to the functions of, the General Teaching Council for England and the General Teaching Council for Wales.
- (3) Subsections (1) and (2) above do not limit the circumstances in which information may be supplied other than by virtue of this section and are without prejudice to section 9A of this Act.]

#### Textual Amendments

- F5** S. 5B inserted (13.10.2000) by 2000 asp 6, s. 45(4); S.S.I. 2000/361, art. 3(1), Sch. Pt. I (subject to transitional provisions in art. 4)

### *Register of Teachers*

#### **6 Establishment of register.**

- (1) It shall be the duty of the Council to establish and keep a register containing the names, addresses and such qualifications and other particulars as may be prescribed, of persons who are entitled under the following provisions of this section to be registered therein and who apply in the prescribed manner to be so registered.
- (2) Any person shall be entitled to be registered if—
- (a) he is a certificated teacher, or
  - (b) having fulfilled the requirements prescribed by the Secretary of State under the next following section, he has been duly recommended by the governing body of a college of education to the Council for registration; or
  - [<sup>F6</sup>(ba) in the case of a person who is not entitled to be registered under either of the two foregoing paragraphs, he fulfils such requirements as the Secretary of State may by regulations made under this paragraph prescribe; or]
  - (c) in the case of a person who is not entitled to be registered under [<sup>F7</sup>paragraphs (a) to (ba) above], his education, training, fitness to teach and experience are such as, in the opinion of the Council, to warrant his registration; or
  - (d) having been a certificated teacher whose certificate has been withdrawn or suspended, and not restored under any enactment in force before the commencement of this Act, his registration has been directed by the Disciplinary Committee under paragraph (d) of section 10(3) of this Act or, in a case not falling under that paragraph, by the Council:

Provided that the entitlement of any person to be registered by virtue of this subsection shall, in a case referred to the Disciplinary Committee under section 10(2)(b) of this Act, be subject to any direction by that Committee under section 11(2) of this Act.

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- [<sup>F8</sup>(2A) Before making regulations under subsection (2)(ba) above the Secretary of State shall consult the Council and such organisation as appears to him to be representative of the interests of education authorities.
- (2B) Regulations made by the Secretary of State under subsection (2)(ba) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]
- (3) For avoidance of doubt it is hereby declared that a person shall not be entitled to be registered by virtue of paragraph (c) of the last foregoing subsection if he has been a certificated teacher and his certificate has been withdrawn or suspended, and not restored under any enactment in force before the commencement of this Act.
- (4) The Council may make rules with respect to the form and keeping of the register, and the making of entries and alterations therein; and rules made under this subsection may in particular—
- (a) [<sup>F9</sup>subject to subsection (5B) below,] provide for the registration of a person to be provisional until such conditions as may be prescribed in that behalf are satisfied, and for the cancellation of provisional registration in such circumstances as may be prescribed;
  - (b) provide for the payment of such fees as [<sup>F10</sup>the Council think appropriate] in relation to registration;
  - (c) provide for the removal of a name from the register on a failure to pay a prescribed fee and for its restoration to the register on the making of the prescribed application in that behalf and on payment of that fee and any additional fee prescribed in respect of the restoration;
  - (d) provide for the issue of certificates of registration;
  - (e) prescribe anything required or authorised by this section to be prescribed;
  - (f) make such consequential, ancillary and incidental provisions as appear to the Council to be expedient for the purposes of the rules;
- and in this section (except in [<sup>F11</sup>subsection (2)(b) and (ba)] thereof) “prescribed” means prescribed by the Council in rules made under this subsection.
- (5) Rules made under the last foregoing subsection prescribing fees may provide for the charging of different fees in different classes of case.
- [<sup>F12</sup>(5A) Before making any rules under this section in respect of any matter which is, or may be, the subject of regulations under section 1 of the <sup>M1</sup>Teaching Council (Scotland) Act 1971, the Council shall consult the Secretary of State.]
- [<sup>F13</sup>(5B) The Council may with the consent of the Secretary of State make rules under subsection (4)(a) above in respect of persons entitled to be registered by virtue of regulations made under subsection (2)(ba) above.]
- (6) Rules made under subsection (4) of this section shall be published in such manner as the Council may determine and shall be so made as not to come into force before the expiration of one month from the date on which they are so published.

#### Subordinate Legislation Made

P1 [S. 6\(2\)\(ba\)](#) power exercised by [S.I.1991/1136](#)

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#### Textual Amendments

- F6** S. 6(2)(ba) inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 2(2)(a)**
- F7** Words substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 2(2)(b)**
- F8** S. 6(2A)(2B) inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 2(3)**
- F9** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 2(4)(a)**
- F10** Words substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 2(4)(b)**
- F11** Words substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 2(4)(c)**
- F12** S. 6(5A) inserted by Teaching Council (Scotland) Act 1971 (c. 2), **Sch. para. 1**
- F13** S. 6(5B) inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 2(5)**

#### Marginal Citations

- M1** 1971 c. 2.

VALID FROM 13/10/2000

#### [<sup>F14</sup>6A Further provision as to keeping of register

- (1) After consultation with the Council, the Scottish Ministers may, by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament, make regulations requiring rules under section 6(4) of this Act—
- (a) to make such provision as to the form and manner in which the register is to be kept as shall be specified in the regulations; and
  - (b) to prescribe matters (being matters specified in the regulations) which are to be recorded in the register.
- (2) The Council shall, within one month after any regulations made under subsection (1) above come into force, make and publish such rules, revocations or amendments as the regulations make requisite.]

#### Textual Amendments

- F14** S. 6A inserted (13.10.2000) by 2000 asp 6, s. 47(1); S.S.I. 2000/361, art. 3(1), **Sch. Pt. I** (subject to transitional provisions in art. 4)

## 7 Conditions for recommendation for registration.

- (1) Subject to the following provisions of this section the Secretary of State may make regulations
- [<sup>F15</sup>(a)] prescribing [<sup>F16</sup>or providing for the determination of] conditions to be fulfilled by a person in order to qualify him for admission to a course of training to be a teacher or to be recommended by the governing body of a college of education to the Council for registration

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- [<sup>F17</sup>(b) prescribing or providing for the determination of the content of courses of training to be a teacher.]
- (2) Conditions prescribed under [<sup>F18</sup>or determined by virtue of] the foregoing subsection may include conditions requiring a person to satisfy such persons or authorities as may be so prescribed as regards his education, training and fitness to teach generally.
- (3) Without prejudice to section 4 of this Act the Secretary of State shall, before making regulations under this section, consider any relevant recommendation and, unless he considers it inexpedient to do so, shall make regulations under this section giving effect to that recommendation, or, if any modification to the recommendation is approved both by the Secretary of State and by the Council, the recommendation as so modified.
- (4) If the Secretary of State considers that it is inexpedient to make regulations giving effect to any relevant recommendation, but no modification thereof is approved as aforesaid and the recommendation is not withdrawn, the Secretary of State may either—
- (a) refuse to make regulations giving effect to the recommendation, or
  - (b) make regulations giving effect to the recommendation modified in such manner as he thinks fit.
- (5) If the Secretary of State proposes to make regulations under this section otherwise than in consequence of a relevant recommendation he shall, before publishing a draft thereof in pursuance of [<sup>F19</sup>subsection (8A) of this section], afford to the Council an opportunity of considering the draft and shall have regard to representations made by them.
- (6) If the Secretary of State refuses to make regulations under this section giving effect to a relevant recommendation he shall, as soon as may be, publish in such manner as he thinks fit a statement of the terms of the recommendation and his reasons for refusing to make regulations giving effect to it.
- (7) If the Secretary of State proposes to make regulations under this section—
- (a) in the circumstances mentioned in subsection (4)(b) above, or
  - (b) in the circumstances mentioned in subsection (5) above, and without giving effect to any representations made by the Council under that subsection,
- he shall, when publishing a draft of the regulations in pursuance of [<sup>F20</sup>subsection (8A) of this section], publish in such manner as he thinks fit a statement of the terms of the relevant recommendation, his reasons for modifying it and, if the Council have notified him of any objections to the modifications, those objections; or, as the case may be, a statement of any representations made by the Council under the said subsection (5) and his reasons for not giving effect to them.
- (8) [<sup>F21</sup>Subsections (1), (4) and (5) of section 144 of the Act of 1962] shall apply to the making of regulations under this section as [<sup>F21</sup>they apply] to the making of the regulations referred to in that section.
- [<sup>F22</sup>(8A) The Secretary of State shall, not less than forty days before making regulations under this section, cause a draft of the regulations to be published and send a copy thereof to every education authority, and shall have regard to any representations made by an education authority or by any person interested before he makes the regulations; and the regulations may be made in the same form as in the published draft or in an amended form.]



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- (9) In this section “relevant recommendation” means a recommendation made by the Council under section 2(2) of this Act.

#### Subordinate Legislation Made

- P2** S. 7(1)(a): s. 7(1)(a) power exercised (17.9.1991) by S.I.1991/2921,  
S. 7: for previous exercises of this power see Index to Government Orders.

#### Textual Amendments

- F15** (a) inserted (*retrospectively*) by Education (Scotland) Act 1981 (c. 58, SIF 41:2), s. 17(2)(b)  
**F16** Words inserted (*retrospectively*) by Education (Scotland) Act 1981 (c. 58, SIF 41:2), s. 17(2)(a)  
**F17** Words inserted (*retrospectively*) by Education (Scotland) Act 1981 (c. 58, SIF 41:2), s. 17(2)(b)  
**F18** Words inserted by Education (Scotland) Act 1981 (c. 58, SIF 41:2), s. 21, Sch. 7 para. 2  
**F19** Words substituted by Education (Scotland) Act 1969 (c. 49), Sch. 2 Pt. II para. 2(a)  
**F20** Words substituted by Education (Scotland) Act 1969 (c. 49), Sch. 2 Pt. II para. 2(b)  
**F21** Words substituted by Education (Scotland) Act 1969 (c. 49), Sch. 2 Pt. II para. 2(c)  
**F22** S. 7(8A) inserted by Education (Scotland) Act 1969 (c. 49), Sch. 2 Pt. II para. 2(d)

### 8 Principles for entitlement to registration under s. 6(2)(c).

The Council shall from time to time prepare, and publish in such manner as they think fit, a statement specifying the principles to which they will have regard in considering, for the purpose of section 6(2)(c) of this Act, whether a person’s education, training, fitness to teach and experience warrant his registration.

### 9 Penalty for false representations etc. to obtain registration.

If a person—

- (a) procures or attempts to procure the entry of any name on the register by wilfully making or producing or causing to be made or produced, either orally or in writing, any declaration, certificate or representation which he knows to be false or fraudulent, or  
 (b) falsely or fraudulently holds himself out to be registered,

he shall be liable on summary conviction to a fine not exceeding [<sup>F23</sup>level 3 on the standard scale].

#### Textual Amendments

- F23** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 41:2), ss. 289F, 289G

VALID FROM 13/10/2000

### [<sup>F24</sup>9A] Provision of information contained in register

The Council shall, after consultation with the Scottish Ministers, with the education authorities and with such bodies as appear to the Council to represent other employers of registered teachers, make rules with respect to there being made



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available for inspection (by such means, in such form and within such time as may be prescribed in the rules) information contained in the register; and such rules may make—

- (a) provision as to the circumstances and form in which and the conditions subject to which that information may be made so available; and
- (b) different provision for different classes of information, for different classes of person to whom information is made so available and for different classes of case.]

#### Textual Amendments

**F24** S. 9A inserted (13.10.2000) by 2000 asp 6, s. 48; S.S.I. 2000/361, art. 3(1), Sch. Pt. I (subject to transitional provisions in art. 4)

VALID FROM 13/10/2000

#### [<sup>F25</sup>9B Notification of dismissal etc. to Council

The employer of a registered teacher shall—

- (a) on dismissing the teacher on grounds of—
  - (i) misconduct; or
  - (ii) incompetence;
- (b) on the teacher resigning, or abandoning his position, in circumstances where, but for the resignation or abandonment—
  - (i) he would have been dismissed on grounds of misconduct; or
  - (ii) his dismissal on grounds of misconduct would have been considered by the employer; or
- (c) on the teacher resigning, or abandoning his position, after being informed by the employer that a disciplinary hearing is to be held by the employer as respects the teacher's alleged incompetence,

forthwith notify the Council of the dismissal, resignation or abandonment; and the employer shall in so doing provide the Council with an account of the circumstances which led to the dismissal or which were present when the resignation or abandonment took place.]

#### Textual Amendments

**F25** S. 9B inserted (13.10.2000 for specified purposes and otherwise *prosp.*) by 2000 asp 6, s. 49; S.S.I. 2000/361, art. 3(1), Sch. Pt. I (subject to transitional provisions in art. 4)

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#### [<sup>F26</sup>9C Provision of other information to Council by employer

The employer of a registered teacher shall, when requested to do so by the Council, provide the Council with such information as respects that teacher as the Council

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may reasonably require in connection with the exercise of the functions assigned to them under this Act.]

#### Textual Amendments

**F26** S. 9C inserted (13.10.2000 for specified purposes and otherwise *prosp.*) by 2000 asp 6, s. 49; S.S.I. 2000/361, art. 3(1), **Sch. Pt. I** (subject to transitional provisions in art. 4)

### Disciplinary Provisions

#### 10 Investigating and Disciplinary Committees.

- (1) The Council shall set up from their own number two committees, to be known respectively as the Investigating Committee and the Disciplinary Committee.
- (2) The Investigating Committee shall be charged with the duty of conducting a preliminary investigation into any case where it is alleged—
  - (a) that a registered person is liable under the provisions of this Act to have his name removed from the register, or
  - (b) that a person who has been duly recommended for registration, and has applied to be registered, has been convicted of a serious offence, or has been otherwise guilty of serious misconduct;
 and, if, after such investigation, it considers it just to do so, the Investigating Committee shall refer the case to the Disciplinary Committee.
- (3) The Disciplinary Committee shall be charged with the duty of considering and determining—
  - (a) any case referred to it by the Investigating Committee under the last foregoing subsection;
  - (b) any application by a person for the restoration of his name to the register;
  - (c) any second or subsequent application for registration by a person whose original application has been refused in pursuance of a direction of the Disciplinary Committee under subsection (2) of the next following section;
  - (d) any application for registration by any person who has been a certificated teacher but whose certificate has been withdrawn on the ground of misconduct, or suspended on that ground, and not restored under any enactment in force before the commencement of this Act.
- (4) The Council shall make rules regulating—
  - (a) the membership of each of the said committees, so however that in each there shall be a majority of registered teachers, and that no person (other than the chairman of the Council) who has acted as a member of the Investigating Committee with respect to any case shall act as a member of the Disciplinary Committee with respect to that case;
  - (b) the times and places of the meetings, the quorum and the mode of summoning the members, of the Disciplinary Committee.
- (5) The provisions of Schedule 2 to this Act shall have effect with respect to the procedure of the Disciplinary Committee.

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VALID FROM 01/11/2001

## **[<sup>F27</sup>10A The Professional Conduct Committee**

- (1) Without prejudice to subsections (2) and (3) below, the Professional Conduct Committee shall have the functions of—
  - (a) formulating and keeping under review the policy of the Council as respects the professional conduct of teachers; and
  - (b) overseeing the actings of its own sub-committees.
- (2) Where the Professional Conduct Committee has been notified by—
  - (a) a person’s employer (or former employer if the person is for the time being unemployed); or
  - (b) the Scottish Ministers,that the person has an illness or some other medical condition and after due inquiry the committee is satisfied that that is so and that the nature of the illness, or condition, and its effect on the person are such as to warrant a direction that the person’s name be removed from the register, the committee may so direct.
- (3) The Professional Conduct Committee shall be charged with the duty of considering and determining any application for re-registration of a name in the register where the name was removed by virtue of subsection (2) above.
- (4) Schedule 2 to this Act shall apply in relation to proceedings under subsection (2) above before the Professional Conduct Committee as it applies in relation to any proceedings before the Disciplinary Sub-committee; except that in so applying paragraph 2 of that Schedule that paragraph shall be modified as follows—
  - (a) in sub-paragraph (1)—
    - (i) in head (a), the words “under section 10B(2) of this Act” shall be disregarded; and
    - (ii) head (g) shall be disregarded; and
  - (b) in sub-paragraph (2), heads (b) and (c) shall be disregarded,and such rules as are, for the purposes of that application, made under the said paragraph 2 shall include rules relating to any need for the person to submit himself for examination by an appropriately qualified practitioner appointed by the committee and permitting the attendance at any such examination of a qualified medical practitioner appointed for that purpose by the person.
- (5) When the Professional Conduct Committee directs—
  - (a) that a person’s name be removed from the register; or
  - (b) that an application for re-registration be refused,the committee shall serve on the person notice of the direction; and any such notice shall include a statement of the reasons for the direction.]

### **Textual Amendments**

**F27** Ss. 10-11B substituted for ss. 10, 11 (1.11.2001 for specified purposes and otherwise *prosp.*) by 2000 asp 6, s. 50; S.S.I. 2000/361, art. 3(2), **Sch. Pt. II** (subject to transitional provisions in art. 4)

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VALID FROM 01/11/2001

### **[<sup>F28</sup>10B The Investigating Sub-committee**

- (1) The Investigating Sub-committee shall be charged with the duty of conducting a preliminary investigation into any case where it appears—
- (a) that a registered person may be liable, under or by virtue of any of the provisions of this Act (other than section 10A(2)), to have his name removed from the register; or
  - (b) that a person who—
    - (i) has been duly recommended for registration;
    - (ii) fulfils requirements prescribed under paragraph (ba) of subsection (2) of section 6 of this Act; or
    - (iii) in the opinion of the Council is a person whose registration is warranted in terms of paragraph (c) of that subsection,
 and has applied to be registered may have been convicted of a relevant offence or may otherwise have been guilty of relevant misconduct (irrespective of whether the offence or misconduct took place in Scotland).
- (2) If, after fulfilling its duty under subsection (1) above, the Investigating Sub-committee considers it just to do so it shall refer the case to the Disciplinary Sub-committee.
- (3) In subsection (1)(b) above—
- “relevant misconduct” means conduct which falls short of the standard expected of a registered teacher; and
- “relevant offence” means an offence other than one having no material relevance to the fitness of the perpetrator to be a registered teacher.]

#### **Textual Amendments**

**F28** Ss. 10-11B substituted for ss. 10, 11 (1.11.2001 for specified purposes and otherwise *prosp.*) by 2000 asp 6, s. 50; S.S.I. 2000/361, art. 3(2), **Sch. Pt. II** (subject to transitional provisions in art. 4)

VALID FROM 01/11/2001

### **[<sup>F29</sup>10C The Disciplinary Sub-committee**

- (1) The Disciplinary Sub-committee shall be charged with the duty of considering and determining—
- (a) any case referred to it by the Investigating Sub-committee;
  - (b) any application for re-registration of a name in the register;
  - (c) any second or subsequent application for registration by a person whose original application has been refused in pursuance of its direction under section 11(8) of this Act; and
  - (d) any application for registration by any person who has been a certificated teacher but whose certificate has been withdrawn on the ground of

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misconduct, or suspended on that ground, and not restored under any enactment in force before the commencement of this Act.

- (2) Subsection (1)(b) above does not apply in respect of—
- (a) an application made by virtue of section 6(4)(c) of this Act; or
  - (b) a name removed by virtue of section 10A(2) of this Act.]

### Textual Amendments

**F29** Ss. 10-11B substituted for ss. 10, 11 (1.11.2001 for specified purposes and otherwise *prosp.*) by 2000 asp 6, s. 50; S.S.I. 2000/361, art. 3(2), **Sch. Pt. II** (subject to transitional provisions in art. 4)

## 11 Decisions of Disciplinary Committee.

- (1) Where a registered person—
- (a) has been convicted (whether in Scotland or elsewhere) of a criminal offence which, in the opinion of the Disciplinary Committee, renders him unfit to be registered; or
  - (b) is judged by the Disciplinary Committee to be guilty of infamous conduct in any professional respect,
- or where the Disciplinary Committee is satisfied that the name of such a person has been registered in error in consequence of any false or fraudulent declaration or representation, that Committee may, if it thinks fit, direct that the person's name shall be removed from the register.
- (2) Where a person who has been duly recommended for registration, and has applied for registration—
- (a) has been convicted (whether in Scotland or elsewhere) of a criminal offence, or
  - (b) is judged by the Disciplinary Committee to be guilty of misconduct,
- which, in the opinion of that Committee, renders him unfit to be registered, that Committee may, if it thinks fit, direct that the person's application shall be refused.
- (3) A person—
- (a) whose application for registration has been refused in pursuance of a direction by the Disciplinary Committee under section 10(3)(d) of this Act or under the last foregoing subsection, or
  - (b) whose name is removed from the register in pursuance of a direction of the Disciplinary Committee under subsection (1) of this section,
- shall not be entitled to be registered or, as the case may be, registered again, except in pursuance of a direction given by that Committee on the application of that person.
- (4) The Disciplinary Committee, in directing that a person's application for registration or re-registration shall be refused or that a person's name shall be removed from the register, may prohibit that person from applying, or, as the case may be, applying again, for a direction under the last foregoing subsection until the expiration of such period, not exceeding twelve months from the date of the direction, as may be specified in the prohibition.
- (5) When the Disciplinary Committee directs that a person's application for registration or re-registration shall be refused, or that a person's name shall be removed from the

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register, the Committee shall cause notice of the direction to be served on that person, and any such notice shall include a statement of the facts found to have been proved in the proceedings before the Committee and the reasons for the direction.

VALID FROM 01/11/2001

### [<sup>F30</sup>11A Temporary suspension

- (1) Where, as respects a registered person—
- (a) a preliminary investigation under section 10B(1) of this Act is pending, the Investigating Sub-committee; or
  - (b) proceedings under section 10C of this Act are pending, the Disciplinary Sub-committee,

may, if it is satisfied that there is prima facie evidence of circumstances on the basis of which the person's name might come to be removed from the register, direct that, until the date on which the case is finally disposed of, the entry for the person's name shall be marked on the register as suspended; but if in determining the case the Disciplinary Sub-committee makes no direction for the removal of the name from the register, it shall direct that the suspension be cancelled and the mark on the register removed accordingly.

- (2) When the Investigating Sub-committee or the Disciplinary Sub-committee makes a direction under subsection (1) above, it shall serve notice of the direction—
- (a) on the person; and
  - (b) if the person is in employment as a teacher, on the employer.
- (3) Subsections (1) and (2) above shall apply in relation to proceedings under section 10A(2) of this Act and to the Professional Conduct Committee as they apply in relation to proceedings under section 10C of this Act and to the Disciplinary Sub-committee.]

#### Textual Amendments

**F30** S. 10-11B substituted for ss. 10, 11 (1.11.2001 for specified purposes and otherwise *prosp.*) by 2000 asp 6, s. 50; S.S.I. 2000/361, art. 3(2), **Sch. Pt. II** (subject to transitional provisions in art. 4)

VALID FROM 01/11/2001

### [<sup>F31</sup>11B Notification to employer of outcome of disciplinary proceedings

When proceedings in a case such as is mentioned in section 10A(2) or 10C(1)(a) of this Act against a person employed as a teacher are finally disposed of, the Council shall forthwith advise the person's employers of the outcome of those proceedings.]

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### Textual Amendments

**F31** S. 10-11B substituted for ss. 10, 11 (1.11.2001 for specified purposes and otherwise *prosp.*) by 2000 asp 6, s. 50; S.S.I. 2000/361, art. 3(2), **Sch. Pt. II** (subject to transitional provisions in art. 4)

## 12 Appeals.

- (1) Any person—
- (a) in respect of whom a direction has been made by the Disciplinary Committee under subsection (1) or subsection (2) of the last foregoing section;
  - (b) whose application for the restoration of his name to the register has been refused by the Disciplinary Committee;
  - (c) whose application for registration has been refused in pursuance of a direction by the Disciplinary Committee under section 10(3)(d) of this Act;
- may, within twenty-eight days of the service on him of notice of the direction, appeal against the direction to the Court of Session in accordance with such rules as may be made by the Court by Act of Sederunt for the purposes of this subsection; and on any such appeal the Court of Session may give such directions in the matter as it thinks proper, including directions as to the expenses of the appeal.
- (2) No appeal shall lie from a decision of the Court of Session on an appeal under this section.
- (3) On an appeal under this section the Council shall be entitled to appear as respondent; and, whether they so appear or not, the Council shall be deemed for the purposes of any award of expenses in the appeal to be a party thereto.
- (4) No direction under subsection (1) of the last foregoing section shall take effect until—
- (a) where the person concerned appeals against the direction in accordance with this section, the appeal has been withdrawn or dismissed, or
  - (b) in any other case, the expiration of the period limited by this section for so appealing.

### *Miscellaneous and Supplementary*

## 13 Service of notices.

Any notice or other document authorised or required to be served under this Act may, without prejudice to any other method of service, be served by registered or recorded delivery post; and for the purpose of the application to this section of section 26 of the <sup>M2</sup>Interpretation Act 1889 (which relates to service by post) the proper address of a person to whose registration such a notice or other document relates shall, if he is a registered person, be his address on the register.

### Marginal Citations

**M2** 1889 c. 63.



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## 14 Orders.

- (1) Any power conferred by this Act to make an order shall include power to vary or revoke the order by a subsequent order.
- (2) Any order made by the Secretary of State under this Act shall be made by statutory instrument; and a statutory instrument containing any such order (except an order under section 18(3) of this Act) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## 15 Financial provisions.

- (1) The Secretary of State may from time to time make to the Council such grants as he thinks fit in respect of expenses incurred or to be incurred by the Council in discharging their functions under this Act, and may make to the Council such loans as he thinks fit in respect of the initial expenses incurred or to be incurred by the Council in establishing the register.
- (2) Where the Secretary of State incurs expenses under paragraph 2 of Schedule 1 to this Act in connection with the first election of the Council he shall be deemed to have made to the Council a loan of an amount equal to the amount of the expenses incurred.
- (3) Any loan made, or deemed to be made, to the Council by the Secretary of State under the foregoing provisions of this section shall be subject to such terms and conditions, and shall be repaid to him at such times, as he may, with the approval of the Treasury, direct.
- (4) Any expenses incurred by the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament.
- (5) Any sums received by the Secretary of State under this Act shall be paid into the Exchequer.

16 .....<sup>F32</sup>

### Textual Amendments

**F32** S. 16 repealed by [Education \(Scotland\) Act 1969 \(c. 49\)](#), [Sch. 3](#)

## 17 Interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively:—
  - “Act of 1962” means the Education (Scotland) Act 1962;
  - [<sup>F33</sup>“establishment” and “residential establishment” have the same meaning as in the <sup>M3</sup>Social Work (Scotland) Act 1968;]
  - “notice” means a notice in writing;
  - “register” means the register established by the Council under section 6 of this Act; and “registered” and “registration” shall be construed accordingly;
  - “teach” means teach in an educational establishment (as defined in section 145 of the Act of 1962) or in an [<sup>F33</sup>establishment or residential

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establishment, where school or further education is provided], and “teaching” and “teacher” shall be construed accordingly.

- (2) Any expression used in this Act and in the Act of 1962 has in this Act, unless the context otherwise requires, the same meaning as it has in that Act.
- (3) Any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

#### Textual Amendments

**F33** Words substituted by [Teaching Council \(Scotland\) Act 1971 \(c. 2\)](#), [Sch. para. 2](#)

#### Marginal Citations

**M3** [1968 c. 49](#).

### 18 Short title, extent and commencement.

- (1) This Act may be cited as the Teaching Council (Scotland) Act 1965.
- (2) This Act extends to Scotland only.
- (3) This Act shall come into operation on such day as the Secretary of State may by order appoint; and different days may be appointed for different provisions.

#### Modifications etc. (not altering text)

**C1** Power of appointment conferred by s. 18(3) fully exercised

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### THE COUNCIL

#### PART I

#### *Constitution of the Council*

- 1 (1) Subject to the provisions of this Schedule the Council shall consist of [<sup>F34</sup>49] persons, comprising—
- (a) [<sup>F34</sup>30] persons representing registered teachers (in this Schedule referred to as “elected members”);
  - (b) 15 persons (in this Schedule referred to as “appointed members”) appointed as follows:—
    - (i) four by the Convention of Scottish Local Authorities;]
    - (iii) three by the Association of Directors of Education in Scotland;
    - (iv) four by the universities of Scotland;
    - (v) two by the governing bodies of the central institutions;
    - (vi) one by the Education Committee of the General Assembly of the Church of Scotland;
    - (vii) one by the Scottish Hierarchy of the Roman Catholic Church;
  - (c) 4 persons (in this Schedule referred to as “nominated members”) nominated by the Secretary of State.
- [<sup>F36</sup>(2) The elected members shall comprise:—
- (a) 5 registered teachers employed in colleges of education, including 4 (but not more than 4) principals;
  - (b) 3 registered teachers employed in further education centres;
  - (c) 11 registered teachers employed in secondary schools;
  - (d) 11 registered teachers employed in primary schools.]
- (3) In the foregoing provisions of this paragraph references to primary schools and to secondary schools include respectively references to primary departments and secondary departments of schools having departments of different grades; references to the universities of Scotland and to the central institutions shall be construed, in relation to any appointment, as references respectively to the universities of Scotland and the central institutions established at the time when the appointment falls to be made; and—
- (a) “employed” means employed on a whole-time basis; and
  - (b) “further education centre” means an institution for the provision of further education but does not include—

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- (i) a university, a theological college or a hostel or other residence used exclusively by students attending university or theological college, or
  - (ii) a central institution, a college of education, a hostel used mainly by pupils attending central institutions or colleges of education, or, unless the Secretary of State otherwise directs, a residential institution conducted under a scheme under the Educational Endowments (Scotland) Acts 1928 to 1935 or Part VI of the <sup>M4</sup>Education (Scotland) Act 1946 or Part VI of the Act of 1962.
- (4) The elected members who are principals of colleges of education shall be elected by the principals of those colleges.
- (5) The elected members other than the principals of colleges of education shall, subject to paragraph 2 of this Schedule, be elected in accordance with the provisions of a scheme made under the next following sub-paragraph.
- (6) For the purpose of the last foregoing sub-paragraph the Council shall, within two years of their establishment, make a scheme, which shall include provision for—
- (a) the appointment of a returning officer and of such staff as may be necessary;
  - (b) the making up of a roll of electors consisting of all registered teachers whether in employment as such or not, showing the category of elected member for which each registered teacher is entitled to vote;
  - (c) the giving of notice of the holding of an election;
  - (d) the nomination of candidates;
  - (e) any other matter necessary for the holding of the elections.
- (7) A scheme made under the last foregoing sub-paragraph may be modified or revoked by a subsequent scheme made by the Council under that sub-paragraph.
- (8) A scheme made under this paragraph shall not come into force until approved by the Secretary of State by order.

#### Textual Amendments

**F34** Words substituted by [S.I. 1970/523](#), [art. 3\(a\)](#)

**F35** [Para. 1\(1\)\(b\)\(i\)](#) substituted for items (i) and (ii) by [Local Government \(Scotland\) Act 1975 \(c. 30\)](#), Sch. 6 Pt. II para. 29(a)

**F36** [Para. 1\(2\)](#) substituted by [S.I. 1970/523](#), [art. 3\(b\)](#)

#### Marginal Citations

**M4** [1946 c. 72](#).

- 2 (1) In respect of the initial membership of the Council the foregoing paragraph shall have effect in relation to elected members as if any reference in that paragraph to registered teachers included a reference to certificated teachers, and as if sub-paragraphs (5) to (8) thereof were omitted; and the elected members other than the principals of colleges of education shall be elected by certificated teachers, being teachers employed in educational establishments and in approved schools, in accordance with arrangements made by the Secretary of State.
- (2) Arrangements made for the purposes of the foregoing sub-paragraph shall secure—

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- (a) that a teacher shall not be eligible to be elected unless he is, on such date as may be determined by or under the arrangements, employed in an educational establishment of one of the categories referred to in paragraph 1(2) of this Schedule; and
- (b) that each teacher shall be entitled to vote only in respect of an elected member employed in an educational establishment of the same category as that in which he himself is employed on that date;
- and shall provide for the determination by the Secretary of State of the category in which a teacher is employed.
- 3 (1) No person shall take office as a member of the Council (whether on election or re-election) after attaining the age of 70 years.
- (2) No person shall be eligible for election or re-election if by virtue of this paragraph he would be prohibited from taking office in pursuance of that election or re-election; but a person who attains the said age during a period of office in respect of which he has been duly elected or re-elected shall not thereby vacate office.
- (3) The two last foregoing sub-paragraphs shall apply to appointment and nomination, and re-appointment and re-nomination, as they apply to election and re-election.
- 4 (1) Subject to [F37 paragraphs 5(3) and 5A] of this Schedule the period of office of members of the Council shall be four years [F38 save that in respect of the initial membership of the Council the period of office shall be][F39 five years].
- (2) A member shall vacate office—
- (a) on the expiration of his period of office;
- (b) on the taking effect of any notice of resignation given by him to the Council;
- (c) on his estate being sequestrated or on his executing a trust deed for creditors;
- [F40(d) where, being an elected member, he ceases to be employed in the category of educational establishment in respect of which he was elected,]
- whichever first occurs.
- (3) Nothing in this paragraph shall prevent the election or re-election of a person who has ceased to be a member, or will have so ceased at or before the commencement of the term of office to which the election or re-election relates.
- (4) The last foregoing sub-paragraph shall apply to appointment and nomination, and to re-appointment and re-nomination, as it applies to election and re-election.
- [F41(4A) Where a member of the Council or of any committee of the Council has failed without good cause to attend meetings for a period of at least 6 months and to attend 3 consecutive meetings, the Council may, by a vote taken at a meeting of the Council at which the member has been given an opportunity to be heard, remove him from the Council.]

#### Textual Amendments

**F37** Words substituted by [Local Government \(Scotland\) Act 1975 \(c. 30\), Sch. 6 Pt. II para. 29\(b\)](#)

**F38** Words added by [S.I. 1969/586, art. 2\(a\)](#)

**F39** Words substituted by [S.I. 1970/523, art. 3\(c\)](#)

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**F40** Para. 4(2)(d) inserted by S.I. 1970/523, **art. 3(d)**

**F41** Sch. 1 para. 4A inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 2(6)**

- 5 (1) Where an elected member dies or vacates office before the expiration of his period of office the vacancy shall be filled by the person who, in the election of that member, obtained the second highest number of votes; whom failing, by the person who in that election obtained the next highest number of votes, and so on; and if no such person is available the Council shall fill the vacancy by co-opting such registered teacher or certificated teacher as they think fit, being a teacher of like electoral qualifications as the said member.
- (2) Where an appointed or nominated member dies or vacates office before the expiration of his period of office the vacancy shall be filled by the appointment or, as the case may be, nomination of another person by the body, group of bodies or person who appointed or nominated the member who has died or vacated office.
- (3) In relation to a member who takes office by virtue of this paragraph, paragraph 4 of this Schedule shall have effect as if, for the reference in sub-paragraph (1) thereof to four years, [<sup>F42</sup>or, as the case may be][<sup>F43</sup>five years] there were substituted a reference to the unexpired part of the period of office of the member who has died or vacated office.

#### Textual Amendments

**F42** Words inserted by S.I. 1969/586, **art. 2(b)**

**F43** Words substituted by S.I. 1970/523, **art. 3(e)**

- [<sup>F44</sup>5A On 16th May 1975 each person holding office as a member of the Council who has been appointed by the Association of County Councils in Scotland or by the Scottish Counties of Cities Association shall go out of office; and any person, appointed as a member of the Council by the Convention of Scottish Local Authorities by virtue of paragraph 1(1)(b)(i) of this Schedule in respect of the period of office of members of the Council current at the date of the commencement of paragraph 29 of Schedule 6 to the <sup>M5</sup>Local Government (Scotland) Act 1975, shall hold office until 31st January 1979 inclusive.]

#### Textual Amendments

**F44** Para. 5A inserted by Local Government (Scotland) Act 1975 (c. 30), **Sch. 6 Pt. II para. 29(c)**

#### Marginal Citations

**M5** 1975 c. 30.

- 6 (1) The Secretary of State may, if owing to a change of circumstances he considers it expedient to do so, and after consultation with the Council and any other body or person who appears to him to be concerned, by order amend the foregoing provisions of this Part of this Schedule:

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Provided that an order under this paragraph shall not reduce the proportion which the number of members of the Council who are elected members (other than principals of colleges of education) bears, under the said foregoing provisions, to the total number of members.

- (2) An order under this paragraph may contain such consequential and ancillary provisions as the Secretary of State thinks necessary for the purposes of the order.

VALID FROM 16/05/1992

[<sup>F45</sup>6A In Part I of this Schedule, any reference to the principal of a relevant institution shall be construed, as regards a relevant institution which does not have as its sole or main activity the provision of courses for the education and training of teachers, as a reference to the person responsible to the principal of the institution for administering such courses.]

#### Textual Amendments

**F45** Sch. 1 para. 6(A) inserted (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), Sch. 9 para. 1(5)(d); S.I. 1992/817, art. 3(2), Sch.1.

## PART II

### *Supplementary provisions relating to the Council*

#### *Incorporation*

- 7 The Council shall be a body corporate, with a common seal.

#### *Powers*

- 8 In addition to the powers conferred on the Council by the other provisions of this Act, the Council shall have power to acquire, dispose of, and otherwise intrmit with, rights in land.

#### *Chairman*

- 9 (1) The chairman of the Council shall be appointed by the members of the Council from their own number.
- (2) The chairman, or in his absence the person acting as chairman, of the Council shall have a casting vote in the proceedings of the Council.

#### *Assessors*

- 10 The Secretary of State may appoint not more than two persons to be assessors for him at the proceedings of the Council; and each such assessor (or in his absence from any proceedings such other person as may be nominated by him



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for the purpose of those proceedings) shall be entitled to attend and speak at the proceedings of the Council and of any committee thereof except the Investigating Committee and the Disciplinary Committee; but no assessor shall be entitled to vote at any such proceedings.

### *Proceedings*

- 11 The powers of the Council, and any committee thereof, may be exercised notwithstanding any vacancy in the membership thereof, and the proceedings of the Council or any such committee shall not be invalidated by reason only of any defect in the election, appointment or nomination of a member.

### *Standing orders*

- 12 Subject to the provisions of this Act the Council may make standing orders for the regulation of their proceedings and the quorum at such proceedings, and of the proceedings, and the quorum at the proceedings, of any committee of the Council other than the Disciplinary Committee; and for the keeping of records, the execution of documents and such other matters connected with the conduct of the Council's business as the Council think fit.

### *Expenses and accounts*

- 13 (1) Any fees payable by virtue of this Act in respect of the entry, or retention of a name on, or the restoration of a name to, the register shall be paid to the Council, and any expenses of the Council shall be defrayed out of the sums received by the Council either on account of those fees or otherwise.
- (2) The Council shall keep proper accounts of all sums received or paid by them, and proper records in relation to those accounts, and the accounts for each financial year of the Council shall be audited by auditors appointed by the Council; and as soon as any accounts of the Council have been audited the Council shall cause them to be published, and shall send a copy of them to the Secretary of State, together with a copy of any report of the auditors thereon.
- (3) No person shall be qualified to be appointed as an auditor under this paragraph unless he is a member of one or more of the following bodies:—
- the Institute of Chartered Accountants of Scotland;
  - the Institute of Chartered Accountants in England and Wales;
  - the Institute of Chartered Accountants in Ireland;
  - the Association of Certified and Corporate Accountants;
  - any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of [F46section 389(1)(a) of the Companies Act 1985 by the Secretary of State];
- but a Scottish firm may be so appointed if each of the partners thereof is qualified to be so appointed.

#### **Textual Amendments**

**F46** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, [Sch. 2](#)

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### *Officials*

- 14 (1) The Council may employ a registrar and such other wholtime and part-time officers and servants as they may require to enable them to carry out their functions, and may do so on such terms as to remuneration, allowances or otherwise as the Council may determine.
- (2) The Council may require any person employed by them whose responsibility includes intromission with their funds to find such caution as they may determine for his duly accounting for his intromissions.
- (3) The Council may pay, or enter into arrangements with insurance companies or local authorities for the payment of, pensions and other superannuation benefits to persons who have been employed by them.

### *Allowances for members*

- 15 The Council may, with the approval of the Secretary of State, pay to their members, and to other persons who are members of any committee appointed by the Council, such travelling, subsistence and other allowances as they think fit.

### *Committee on exceptional admission to the register*

- 16 (1) The Council shall appoint a committee, consisting of not more than one-third of the members of the Council, to review from time to time the principles specified in any statement under section 8 of this Act, and shall delegate to that committee the functions of the Council in dealing, in accordance with those principles, with applications for registration by virtue of section 6(2)(c) of this Act.
- (2) Any person aggrieved by a decision of the said committee refusing that person's application for registration shall be entitled to require the Council to review the decision; and in relation to any such review no person, other than the chairman of the Council, who was a member of the said committee at the time when its decision was taken shall be entitled to take part in the proceedings of the Council.
- (3) Where the Council in pursuance of the last foregoing sub-paragraph review a decision of the said committee they shall afford to the applicant, if he so desires, an opportunity of appearing before them and being heard in relation to the review.
- (4) Where the said committee or the Council, under sub-paragraph (1) or, as the case may be, sub-paragraph (2) of this paragraph, refuse a person's application for registration, the committee or, as the case may be, the Council shall cause notice of the refusal to be served on that person; and any such notice shall include a statement of the reasons for the refusal.

### *Other committees*

VALID FROM 13/10/2000

- <sup>F47</sup>16A The Scottish Ministers may, by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament, make regulations—
- (a) requiring the Council to establish such committees, for such purposes, as are specified in the regulations; and

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(b) providing for the membership of any committee so established.]

#### Textual Amendments

**F47** Sch. 1 Pt. II para. 16A inserted (13.10.2000) by 2000 asp 6, s. 54; S.S.I. 2000/361, art. 3(1), **Sch. Pt. I** (subject to transitional provisions in art. 4)

#### Other committees

- 17 Subject to the last foregoing paragraph and to the provisions of this Act relating to the Investigating Committee and the Disciplinary Committee, the Council may appoint such committees (consisting either wholly of members of the Council or partly of such members and partly of other persons) as the Council think fit; and any committee appointed under this paragraph may appoint such sub-committees as the committee thinks fit.

## SCHEDULE 2

### PROCEDURE OF DISCIPLINARY COMMITTEE

- 1 For the purpose of any proceedings before the Disciplinary Committee, the Committee may administer oaths; and the Court of Session shall, on the application of any party to the proceedings, have the like power as in any action in that Court to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the Committee, and for the issue of letters of second diligence against any witness or haver failing to appear after due citation, to grant warrant for the recovery of documents, and to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.
- 2 (1) Subject to the next following sub-paragraph, the Council shall make rules as to the procedure to be followed and the rules of evidence to be observed in proceedings before the Disciplinary Committee, and in particular—
- (a) for securing that notice that the proceedings are to be brought shall be given, at such time and in such manner as may be specified by the rules, to any person whose case has been referred to the Committee under section 10(2) of this Act, and that such notice shall include a statement of the alleged facts and circumstances on which the proceedings are to be based;
  - (b) for determining who, in addition to the person aforesaid, shall be a party to the proceedings;
  - (c) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the Committee;
  - (d) for enabling any party to the proceedings to be represented by counsel or solicitor or otherwise;
  - (e) for requiring the proceedings to be held in public except so far as may be provided by the rules;

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- (f) for securing that where evidence is tendered which would be inadmissible in criminal proceedings in Scotland it shall not be admitted by the Committee unless, after consultation with the assessor acting under paragraph 3 of this Schedule, the Committee is satisfied that its duties under this Act require that it should be admitted;
  - (g) for requiring, in cases where it is alleged that a person is guilty of infamous conduct in any professional respect, that where the Committee judges that the allegation has not been proved it shall record a finding that the person is not guilty of such conduct in respect of the matters to which the allegation relates.
- (2) As respects proceedings for—
- (a) the restoration to the register of the name of a person whose name was previously removed from the register by direction of the Disciplinary Committee,
  - (b) the determination of an application under section 10(3)(d) of this Act, or
  - (c) the determination of a second or subsequent application for registration by a person whose original application has been refused in pursuance of a direction by the Disciplinary Committee under section 11(2) of this Act,
- the Council shall have power to make rules with respect to all or any of the matters mentioned in the foregoing sub-paragraph, but shall not be required to do so; and separate rules under this paragraph may be made as respects such proceedings.
- (3) Rules under this paragraph shall not come into force until approved by the Lord President of the Court of Session.
- 3 (1) For the purpose of advising the Disciplinary Committee on questions of law arising in proceedings before it, there shall in all such proceedings be an assessor to the Committee who shall be an advocate or solicitor of not less than ten years' standing appointed by the Council; but if no assessor appointed by the Council is available to act in any particular proceedings the Committee may appoint an assessor qualified as aforesaid for those proceedings.
- (2) The Lord President of the Court of Session may, by statutory instrument, make rules as to the functions of assessors appointed under this paragraph, and in particular such rules may contain provision for securing—
- (a) that where an assessor advises the Disciplinary Committee on any question of law as to evidence, procedure or any other matters specified by the rules, he shall do so in the presence of every party or person representing a party to the proceedings who appears thereat or, if the advice is tendered while the Committee is deliberating in private, that every such party or person as aforesaid shall be informed what advice the assessor has tendered;
  - (b) that every such party or person as aforesaid shall be informed if in any case the Committee does not accept the advice of the assessor on such a question as aforesaid;
- and may contain such incidental and supplementary provisions as the Lord President considers expedient.
- (3) The <sup>M6</sup>Statutory Instruments Act 1946 shall apply to any statutory instrument made by the Lord President under the last foregoing sub-paragraph as if the instrument had been made by a Minister of the Crown.

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- (4) Except in the case of an assessor appointed by the Committee itself under sub-paragraph (1) above, an assessor may be appointed under this paragraph either generally or for any particular proceedings or class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which he is appointed.
- (5) The Council shall pay to an assessor appointed under this paragraph remuneration at such rates as0 may be determined by the Council with the consent of the Lord President.

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**Marginal Citations**

**M6** 1946 c. 36.

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