



# Teaching Council (Scotland) Act 1965 (repealed)

## 1965 CHAPTER 19

### *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- (d) any application for registration by any person who has been a certificated teacher but whose certificate has been withdrawn on the ground of misconduct, or suspended on that ground, and not restored under any enactment in force before the commencement of this Act.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—

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- (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.

VALID FROM 01/11/2001

### **[<sup>F1</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

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(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

**F1** 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>F2</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

**F2** 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>F3</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 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

- F3** 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—

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- (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 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>F4</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.]

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#### Textual Amendments

- F4** 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>F5</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.]

#### Textual Amendments

- F5** 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.

[<sup>F6</sup>(1) Any—

- (a) such person as is mentioned in section 10A(2) or in paragraph (a) or (b) of section 11(9) of this Act;
- (b) person whose application for re-registration has been refused in compliance with a direction under this Act; or
- (c) person whose application for registration has been refused in compliance with a direction of the committee appointed under paragraph 16(1) of Part II of Schedule 1 to this Act,

may, within twenty-eight days after the service on him of notice of the direction in question, appeal against—

- (i) that direction; or
- (ii) in the case of a direction by the Disciplinary Sub-committee, any prohibition imposed by virtue of section 11(10) of this Act,

to the Court of Session in accordance with such rules as may be made by Act of Sederunt for the purposes of this subsection; and on any such appeal the Court may give such directions in the matter as it thinks proper, including directions as to the expenses of the appeal.

(1A) Any person—

- (a) in respect of whom a direction has been made by the Disciplinary Sub-committee, the Investigating Sub-committee or the Professional Conduct Committee and who does not have a right of appeal under subsection (1) above; or
- (b) whose application for variation or revocation of a condition specified in a conditional registration order has been refused by the Professional Conduct Committee,

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may, within the prescribed number of days after the service on him of notice of the direction or refusal in question, require the Council to review the direction or refusal; and in relation to any such review no person who was a member of the Disciplinary Sub-committee, or as the case may be of the Investigating Sub-committee or the Professional Conduct Committee, at the time the direction, or the decision to refuse the application, was made shall be entitled to take part in the proceedings of the Council.]

- (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.

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#### **Textual Amendments**

**F6** S. 12(1)(1A) substituted for s. 12(1) (13.10.2000 for certain purposes and otherwise *prosp.*) by 2000 asp 6, s. 51(1); S.S.I. 2000/361, art. 3, **Sch. Pt. I** (subject to transitional provisions in art. 4)

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