



Number 8 of 2001

TEACHING COUNCIL ACT, 2001

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TEACHING COUNCIL ACT, 2001

AN ACT TO PROMOTE TEACHING AS A PROFESSION; TO PROMOTE THE PROFESSIONAL DEVELOPMENT OF TEACHERS; TO MAINTAIN AND IMPROVE THE QUALITY OF TEACHING IN THE STATE; TO PROVIDE FOR THE ESTABLISHMENT OF STANDARDS, POLICIES AND PROCEDURES FOR THE EDUCATION AND TRAINING OF TEACHERS AND OTHER MATTERS RELATING TO TEACHERS AND THE TEACHING PROFESSION; TO PROVIDE FOR THE REGISTRATION AND REGULATION OF TEACHERS AND TO ENHANCE PROFESSIONAL STANDARDS AND COMPETENCE; FOR THOSE PURPOSES TO ESTABLISH A COUNCIL TO BE KNOWN AS AN CHOMHAIRLE MHÚINTEOIREACHTA OR, IN THE ENGLISH LANGUAGE, THE TEACHING COUNCIL; TO PROVIDE FOR THE REPEAL OF THE INTERMEDIATE EDUCATION (IRELAND) ACT, 1914, AND TO PROVIDE FOR RELATED MATTERS.

[17th April, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Teaching Council Act, 2001. Short title and commencement.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes or provisions.

2.—(1) In this Act, except where the context otherwise requires— Interpretation.

“chairperson” means the chairperson of the Council elected under *paragraph 6 of Schedule 1* and includes the deputy chairperson and a member of the Council appointed under *paragraph 11(c)* of that Schedule to preside at a meeting, while so presiding;

“committee” means a committee established under *section 24*;

“Council” means the Teaching Council established under *section 5*;

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“Director” means the chief executive officer of the Council appointed under *section 11*;

“Disciplinary Committee” means the committee established under *section 24(2)(b)(ii)*;

“establishment day” means the day appointed by the Minister under *section 3* to be the establishment day for the purposes of this Act;

“Executive Committee” means the committee established under *section 24(2)(a)*;

“first Director” means a person appointed under *section 12* to be the first Director of the Council;

“Investigating Committee” means the committee established under *section 24(2)(b)(i)*;

“Minister” means the Minister for Education and Science;

“national association of parents” has the same meaning as in the Education Act, 1998;

“panel” means a panel of the Disciplinary Committee established under *section 43(2)*;

“prescribed” means prescribed by regulations made by the Minister or the Council, as the case may be;

“professional misconduct” shall be construed in accordance with *section 41*;

“recognised post-primary school” means a recognised school which provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training;

“recognised primary school” means a recognised school which provides primary education to its students and which may also provide early childhood education;

“recognised school” means a school which is recognised by the Minister in accordance with *section 10* of the Education Act, 1998;

“recognised school management organisations” has the same meaning as in the Education Act, 1998;

“recognised trade union” means a trade union licensed under the Trade Union Acts, 1871 to 1990, that stands recognised for consultation purposes;

“register” means the register of teachers established under *section 29* and “registration” and “registered” shall be construed accordingly;

“registered teacher” means a teacher whose name is entered in the register in accordance with *Part 3*;

“Registration Council” means the Registration Council constituted under *section 1* of the Intermediate Education (Ireland) Act, 1914;

“renewal fee” means a fee charged under *section 23(2)(d)* or *(e)*;

“teacher” means a person who—

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(a) before the establishment day has achieved the qualifications required by the Minister for employment as a teacher in a recognised school, or

(b) in the case of a person to whom *paragraph (a)* does not apply, is eligible for registration under *section 31(5)*.

(2) In this Act—

(a) a reference to a Part, section or Schedule is a reference to a Part or section of, or Schedule to, this Act, unless it is indicated that a reference to some other provision is intended,

(b) a reference to a subsection, paragraph, subparagraph or clause is a reference to the subsection, paragraph, subparagraph or clause of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended,

(c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended, by or under any other enactment, including this Act, and

(d) a reference to the performance of functions includes, with respect to powers and duties, a reference to the exercise of powers and the carrying out of duties.

3.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Act. Establishment day.

4.—(1) The Minister or, subject to the consent of the Minister, the Council, may make regulations prescribing any matter which is referred to in this Act as prescribed or to be prescribed or in relation to any matter referred to in this Act as the subject of regulations or for the purposes of enabling any provision of this Act to have full effect. Regulations and orders.

(2) Every regulation or order made by the Minister (other than an order made under *section 1(2), 3, 8(3) or (5) or 16(7)*) and rules made by the Council under *paragraph 2 of Schedule 3* shall be laid before each House of the Oireachtas as soon as practicable after they are made and, if a resolution annulling the regulation, order or rules is passed by either House within the next subsequent 21 days on which that House has sat after the regulation, order or rules are laid before it, the regulation, order or rules shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(3) Regulations made under this Act may—

(a) include such consequential, incidental, transitional or supplementary provisions as may be considered by the Minister or the Council, as the case may be, to be necessary or appropriate for the purposes of this Act, and

(b) apply, either generally or by reference, to a specified class or classes of persons or category or categories of recognised school or to any other matter as may be considered by the Minister or the Council to be appropriate.

PART 2

THE TEACHING COUNCIL

CHAPTER 1

The Council: General Provisions

Establishment of
Teaching Council.

5.—(1) There shall stand established on the establishment day a body to be known as An Chomhairle Mhúinteoireachta or, in the English language, the Teaching Council, which shall perform the functions conferred on it by or under this Act.

(2) The Council shall be a body corporate with perpetual succession and a seal and power to sue and be sued in its corporate name and, with the consent of the Minister (given with the approval of the Minister for Finance), to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of any other property.

(3) The Council may, subject to this Act, regulate its own procedure.

(4) *Schedule 1* shall apply to the Council.

Objects of Council.

6.—The objects of the Council shall be—

- (a) to regulate the teaching profession and the professional conduct of teachers,
- (b) to establish and promote the maintenance and improvement of standards of—
 - (i) programmes of teacher education and training,
 - (ii) teaching, knowledge, skill and competence of teachers in recognised primary and post-primary schools, and
 - (iii) professional conduct of teachers,
- and
- (c) to promote the continuing education and training and professional development of teachers.

Functions of
Council.

7.—(1) The functions of the Council shall be to do all things necessary or expedient in accordance with this Act to further the objects of the Council.

(2) Without prejudice to the generality of *subsection (1)*, the Council shall perform the following functions:

- (a) promote teaching as a profession;
- (b) establish, publish, review and maintain codes of professional conduct for teachers, which shall include standards of teaching, knowledge, skill and competence;
- (c) establish and maintain a register of teachers;

- (d) determine, from time to time, the education and training and qualifications required for a person to be registered; Pr.2 S.7
- (e) establish procedures and criteria for registration including the issue of certificates and renewal of registration;
- (f) establish procedures in relation to the induction of teachers into the teaching profession;
- (g) establish procedures and criteria for probation of teachers including periods of probation;
- (h) advise the Minister in relation to all or any of the following:
 - (i) the minimum standards of educational qualifications required for entry into programmes of teacher education and training;
 - (ii) the professional development of teachers;
 - (iii) teacher supply;
 - (iv) any other matter relating to the functions of the Council as the Council considers appropriate or as requested by the Minister;
- (i) conduct inquiries into and, where appropriate, impose sanctions in relation to, the fitness to teach of any registered teacher;
- (j) conduct or commission research on matters relevant to the objects of the Council and, as it considers appropriate, to publish in such form and manner as the Council thinks fit the findings arising out of such research;
- (k) represent the teaching profession on educational issues and establish procedures for the exchange of information with teachers, organisations involved in education and the public;
- (l) provide the Minister with such information as the Minister may from time to time require;
- (m) review and accredit programmes of teacher education and training for the purpose of registration;
- (n) act as a designated authority within the meaning of Regulation 3(1) of the European Communities (General System for the Recognition of Higher Education Diplomas) Regulations, 1991 (S.I. No. 1 of 1991) for the recognition of qualifications under Council Directive No. 89/48/EEC of 21 December 1988¹;
- (o) act as the competent authority for the recognition of qualifications, obtained in a state other than a Member State of the European Communities, by a person who has applied under this Act to be registered;
- (p) as the Minister may direct, co-operate with such body as may be established in Northern Ireland, which performs similar functions to the Council, in relation to teacher

¹ O.J. No. L19, 24.1.89, p.16.

qualifications and teacher exchanges between the State and Northern Ireland.

- (3) The Council in the performance of its functions shall—
- (a) implement the policies relating to teacher education and training, probation, qualifications, professional conduct and standards of teaching as established, from time to time, by the Minister,
 - (b) have regard to the implications of its advice to the Minister under *subsection (2)(h)* for the resources, including financial resources, available and to the practical implementation of any such advice, and
 - (c) as the Minister may direct, co-operate with the body referred to in *subsection (2)(p)* in relation to those matters which are within the respective competence of such body and the Council and which such body and the Council agree are of mutual interest and benefit to the teaching profession in the State and Northern Ireland.

8.—(1) The Council shall consist of 37 members.

(2) The members of the Council shall be appointed by the Minister and shall include—

- (a) 11 registered teachers employed in, or qualified to teach in, recognised primary schools of whom—
 - (i) 9 shall be elected by registered teachers employed in, or qualified to teach in, recognised primary schools, and
 - (ii) 2 shall be nominated by recognised trade unions representing such teachers,
- (b) 11 registered teachers employed in, or qualified to teach in, recognised post-primary schools of whom—
 - (i) 7 shall be elected by registered teachers employed in, or qualified to teach in, recognised post-primary schools, and
 - (ii) 4 shall be nominated by recognised trade unions representing such teachers,
- (c) 2 persons nominated jointly by the following bodies:
 - (i) St. Patrick's College, Drumcondra, Dublin;
 - (ii) Church of Ireland College of Education, Rathmines, Dublin;
 - (iii) St. Mary's, Marino, Dublin;
 - (iv) Froebel College of Education, Sion Hill, Blackrock, County Dublin;
 - (v) Mary Immaculate College, University of Limerick,

(d) 2 persons nominated jointly by the following bodies: Pr.2 S.8

- (i) National College of Art and Design;
- (ii) National University of Ireland, Cork;
- (iii) National University of Ireland, Dublin;
- (iv) National University of Ireland, Galway;
- (v) National University of Ireland, Maynooth;
- (vi) Dublin University;
- (vii) University of Limerick;
- (viii) Dublin City University;
- (ix) St. Catherine's College of Education for Home Economics, Sion Hill, Blackrock, County Dublin;
- (x) St. Angela's College of Education, Sligo;
- (xi) such other bodies, providing university or other higher education and training (within the meaning of the Qualifications (Education and Training) Act, 1999), as the Council shall determine,

(e) 4 persons nominated by recognised school management organisations of whom—

- (i) 2 shall be nominated by recognised school management organisations representing managers of recognised primary schools, and
- (ii) 2 shall be nominated by recognised school management organisations representing managers of recognised post-primary schools,

(f) 2 persons nominated by national associations of parents of whom—

- (i) one shall be nominated jointly by those national associations of parents representing parents of students attending recognised primary schools, and
- (ii) one shall be nominated jointly by those national associations of parents representing parents of students attending recognised post-primary schools,

and

(g) 5 persons appointed by the Minister, including persons with experience in business, industry or the professions, of whom—

- (i) one shall be nominated to the Minister by the Irish Congress of Trade Unions, and
- (ii) one shall be nominated to the Minister by the Irish Business and Employers' Confederation.

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(3) The Minister may, by order, as he or she considers appropriate, following consultation with the Council, amend *subsection (2)(c)* or *(d)* by adding an institution to, or by deleting an institution from, those provisions.

(4) Where the Minister proposes to make an order under *subsection (3)* or *(5)*, a draft of the proposed order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft order has been passed by each such House.

(5) The Minister may amend or revoke an order made under this section, including an order made under this subsection.

(6) The Minister shall have regard to the desirability of an appropriate gender balance as he or she may determine, from time to time, when making—

(a) appointments to the Council under this section, or

(b) regulations under *section 10(1)* for the purpose of the election of members to the Council.

(7) The members of the Council (including the chairperson) may be paid such remuneration and allowances for expenses incurred by them as the Minister, with the consent of the Minister for Finance, may determine.

Appointment of
members of
Council.

9.—The Minister shall take all steps necessary to secure the appointment of members to the first Council established after the commencement of this Act and the Council shall take all steps necessary to secure the appointment of members to each subsequent Council.

Election of
members of
Council.

10.—(1) (a) In the case of the first election of members to the Council, the Minister may make regulations for the purposes of the following:

(i) the election of members in accordance with *paragraphs (a)(i)* and *(b)(i)* of *section 8(2)*;

(ii) to ensure, in so far as it is practicable, that the election of members shall be on as equitable a geographical basis as possible and, for that purpose, to make provision for the determination of constituencies and the number of members from each constituency.

(b) In the case of each subsequent election, the Council, with the approval of the Minister, may make regulations for the purposes referred to in *paragraph (a)(i)* and *(ii)*.

(2) Without prejudice to the generality of *subsection (1)*, the regulations may specify all or any of the following:

(a) the class or classes of persons who shall be entitled to seek nomination for election to the Council;

(b) the class or classes of persons who shall be entitled to nominate a candidate for election or to vote in an election;

- (c) subject to *subsection (3)*, that registered teachers employed in, or qualified to teach in, a particular category of recognised school shall be entitled to vote only for registered teachers employed in, or qualified to teach in, that particular category of recognised school. Pr.2 S.10

(3) In the case of the first election to the Council, a teacher who is employed in a recognised school as a teacher and whose remuneration in respect of that employment is paid out of funds provided by the Oireachtas shall be deemed to be a registered teacher for the purposes of that election.

(4) In the case of the first election to the Council, the returning officer for that election shall be appointed by the Minister, and in the case of each subsequent election, the returning officer for the election shall be appointed by the Council.

11.—(1) Subject to *subsections (2) and (3)* and *section 12*, the Council shall from time to time appoint a chief executive officer of the Council in a whole-time capacity who shall be known and is referred to in this Act as the “Director”. Director.

(2) The Director shall be appointed within 2 years of the establishment of the Council.

(3) The Director shall be appointed in accordance with procedures determined by the Council subject to the consent of the Minister.

(4) The Director shall carry on and manage, and control generally, the administration and business of the Council and shall perform such other functions as may be determined by the Council.

(5) *Schedule 2* shall apply to the Director.

12.—(1) The Minister may appoint a person to be the first Director. First Director.

(2) Subject to *subsection (4)*, the first Director shall hold office for such period (which period shall not exceed 2 years after the establishment of the Council) and on such terms and conditions (including terms and conditions relating to remuneration, fees and allowances for expenses) as may be determined by the Minister with the consent of the Minister for Finance.

(3) Where the first Director ceases to hold office for any reason before the expiration of the period of his or her appointment, the Minister may appoint a person who shall be known as the first Director who shall hold office for such period (which period shall not exceed the remainder of the term of office of the person who occasioned the vacancy he or she is appointed to fill) and on such terms and conditions (including terms and conditions relating to remuneration, fees and allowances for expenses) as may be determined by the Minister with the consent of the Minister for Finance.

(4) When a Director is appointed under *section 11*, the first Director shall cease to hold office.

(5) Until the appointment of a Director under *section 11*, the first Director shall perform all of the functions of a Director under this Act.

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(6) References in this Act to the Director shall, unless the context otherwise requires, include the first Director.

Employees.

13.—(1) Subject to the consent of the Minister and the Minister for Finance, the Council may, from time to time, appoint such and so many persons to be employees of the Council as the Council may determine.

(2) Subject to such conditions as it thinks fit, the Council may delegate to the Director any of the functions of the Council in relation to the appointment of employees and the determination of selection procedures.

(3) Except as otherwise provided by this Act, an employee of the Council shall be employed on such terms and conditions as the Director, with the consent of the Minister and the Minister for Finance, may from time to time determine.

(4) Except as otherwise provided by this Act, the Council shall pay to its employees such remuneration, fees and allowances for expenses as the Council, with the consent of the Minister and the Minister for Finance, may from time to time determine.

Superannuation.

14.—(1) In this section “the Act of 1980” means the Local Government (Superannuation) Act, 1980.

(2) Subject to *subsection (3)*, the Act of 1980 shall apply to the Council and its employees (including the Director) as if the Council were a local authority and the employees were employees of a local authority.

(3) The functions conferred on the Minister for the Environment and Local Government by the Act of 1980, or any instrument made thereunder, shall, for the purposes of that Act as applied to the Council by *subsection (2)*, be performable by the Minister and not by the Minister for the Environment and Local Government.

(4) Schemes and regulations (including modifications to such schemes and regulations) made, before the establishment day, under the Act of 1980 shall, subject to any modifications which the Minister may, with the consent of the Minister for Finance, specify by order, apply to the employees (including the Director) of the Council.

Membership of
either House of
Oireachtas or
European
Parliament.

15.—(1) Where an employee (including the Director) of the Council is—

(a) nominated as a member of Seanad Éireann, or

(b) elected as a member of either House of the Oireachtas or to be a representative in the European Parliament, or

(c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to that Parliament,

he or she shall thereupon stand seconded from employment by the Council and shall not be paid by, or be entitled to receive from, the Council any remuneration, fees and allowances for expenses in respect of the period commencing on such nomination or election or when he or she is so regarded as having been elected, as the case

may be, and ending when he or she ceases to be a member of either such House or such Parliament. Pr.2 S.15

(2) A period referred to in *subsection (1)* shall not, for the purposes of any superannuation benefit, be reckoned as service with the Council.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from employment in any capacity by the Council.

16.—(1) Where the Minister is of the opinion that the Council has failed, neglected or refused to perform a function assigned to it under this Act or has failed effectively to perform any such function or otherwise is in breach of this Act, the Minister may, after first advising the Council of his or her opinion and considering any explanation given in response, appoint a person to inquire into any matter giving rise to the Minister's opinion. Inquiry and removal of members of Council from office.

(2) A person appointed under *subsection (1)* shall inquire into the matters giving rise to the Minister's opinion and any related matter and shall report to the Minister on the findings of the inquiry.

(3) A person appointed under *subsection (1)* shall, for the purposes of this section, be entitled at all reasonable times to enter the premises of the Council to inquire into the affairs of the Council or to conduct an inspection of the premises, equipment and records where the inspection is, in his or her opinion, relevant to the inquiry.

(4) A person appointed under *subsection (1)* shall be afforded all reasonable co-operation and facility by the Council and its employees, including access to such premises, equipment and records as the person may require, to enable him or her to perform his or her functions under this section.

(5) Where the Minister, after considering the report referred to in *subsection (2)*, remains of the opinion that the Council has failed, neglected or refused to perform a function assigned to it under this Act or has failed effectively to perform any such function or otherwise is in breach of this Act, the Minister shall, by notice in writing, inform the Director, and shall give a copy of the report to the Director.

(6) The Council may make representations to the Minister in respect of the report within 14 days of the date of receipt of the report.

(7) The Minister may, by order, after the expiration of the period referred to in *subsection (6)* and after considering the representations, if any, of the Council in respect of the report, remove the members of the Council and terminate their membership—

(a) if the Minister remains of the opinion that the Council has failed, neglected or refused to perform a function assigned to it under this Act or has failed effectively to perform any such function or otherwise is in breach of this Act, and

(b) if the Minister is of the opinion that the Council should be removed.

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(8) Where the Minister proposes to make an order under *subsection (7)*, a draft of the proposed order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft order has been passed by each such House.

(9) Where the Minister makes an order under *subsection (7)*, he or she shall appoint such person or body of persons as he or she thinks fit to perform the functions of the Council and that person or body shall perform those functions until the commencement of the first meeting of the Council after the appointment of its members under *subsection (11)*.

(10) When performing a function conferred by this Act, a person or body of persons appointed under *subsection (9)* may deviate in matters of procedure and in the form of any notice given under this Act as the person or body considers appropriate for the effective performance of the function concerned.

(11) The Minister shall, as soon as practicable, but in any case not later than 12 months after the removal of the members of the Council, appoint a new Council in accordance with *section 8*.

(12) The remuneration, if any, of a person appointed under *subsection (1)* or of a person or member of a body appointed under *subsection (9)* shall be paid out of moneys provided by the Oireachtas.

Indemnification of members of Council.

17.—Except as provided by this Act, no action shall lie against a member of the Council in respect of anything done by that member in good faith and in pursuance of this Act or any regulations made by the Minister under this Act.

Accounts and audits.

18.—(1) The Council shall keep all proper and usual accounts and records of—

(a) all moneys received or expended by it and the sources of such income and the subject matter of such expenditure, and

(b) all property, assets and liabilities of the Council.

(2) Accounts kept in accordance with *subsection (1)* shall be audited at least once in each year by an auditor appointed for that purpose by the Minister and the auditor's fees and the expenses generally of the audit shall be paid by the Council as soon as practicable after the audit.

(3) As soon as practicable after each audit the Council shall provide a copy of the accounts and the auditor's certificate and report thereon to the Minister and shall cause copies of same to be printed, published and offered for sale, and immediately after publication a copy of the accounts and the auditor's certificate and report thereon shall be laid before each House of the Oireachtas.

Gifts.

19.—(1) The Council may accept gifts of money, land or other property upon such trusts and conditions, if any, as may be specified by the donor.

(2) The Council shall not accept a gift if the trusts or conditions attached to it by the donor are inconsistent with or prejudice the objects or functions of the Council under this Act.

20.—The Council may, for the purpose of providing for current or capital expenditure, from time to time, borrow money (whether on the security of the assets of the Council or otherwise), including money in a currency other than the currency of the State, subject to the consent of the Minister and the Minister for Finance and to such conditions as they may specify.

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Power to borrow.

21.—The Minister may, from time to time, for 2 years after the establishment day, with the consent of the Minister for Finance, advance to the Council out of moneys provided by the Oireachtas, such sums as the Minister may determine for the purpose of expenditure by the Council in the performance of its functions.

Advances by
Minister to Council.

22.—(1) All expenses incurred by the Council shall be defrayed by the Council out of funds at its disposal.

Expenses of
Council and
Minister.

(2) The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

23.—(1) The Council may charge, receive and recover such fees as the Council may from time to time prescribe, subject to the consent of the Minister, in relation to the performance by the Council of its functions, the provision by it of services (other than a service consisting of the provision of advice to the Minister or another Minister of the Government) and the carrying on by it of activities.

Fees.

(2) Without prejudice to the generality of *subsection (1)*, the Council may charge fees in respect of all or any of the following:

- (a) registration under *section 31*;
- (b) inspection of or provision of a copy from the register under *section 29(6)*;
- (c) the issue of a certificate of registration under *section 31* to a registered teacher;
- (d) renewal of registration under *section 33*;
- (e) late renewal of registration under *section 34*;
- (f) removal from the register under *section 35*;
- (g) correction of the register on the application of a registered teacher under *section 36*;
- (h) the review and accreditation of programmes of teacher education and training under *section 38*;
- (i) restoration to the register under *section 46*;
- (j) any other service which the Council may, from time to time, provide.

(3) The Council may recover as a simple contract debt in any court of competent jurisdiction, from any person by whom it is payable, any amount due and owing to it under *subsection (1)*.

Committees of Council

Committees.

24.—(1) The Council may establish committees consisting in whole or in part of persons who are members of the Council—

- (a) to assist and advise the Council on matters relating to any of its functions or on such matters as the Council may from time to time determine, or
- (b) to perform such functions of the Council as may be delegated to the committee from time to time.

(2) Without prejudice to the generality of *subsection (1)*, the Council shall establish—

- (a) a committee to be known as the Executive Committee to perform the functions conferred on it by *section 26*, and
- (b) committees to be known, respectively, as—
 - (i) the Investigating Committee, and
 - (ii) the Disciplinary Committee,

to perform the functions conferred on those committees by *Part 5*.

(3) The acts of a committee (other than the Investigating Committee or Disciplinary Committee) and the exercise by a committee of functions delegated to it under this section or, in the case of the Executive Committee, under *section 26*, shall be subject to confirmation by the Council, unless the Council otherwise determines.

(4) Members of a committee—

- (a) shall be appointed subject to such terms and conditions, and
- (b) may be paid, by the Council, such allowances for expenses incurred by them in the discharge of their functions,

as the Council, subject to the consent of the Minister, may determine.

(5) The Council may, subject to this Act, determine the terms of reference and regulate, by standing orders or otherwise, the procedures and business of a committee, including, subject to *subsection (8)*, the filling of casual vacancies, but, subject to any such regulation, a committee may regulate its own procedures.

(6) A committee (other than the Executive Committee, Investigating Committee or Disciplinary Committee) shall appoint, from time to time, a chairperson from among its members.

(7) A member of a committee may be removed by the Council at any time for stated reasons.

(8) Where, in the case of the Executive Committee, Investigating Committee or Disciplinary Committee, a casual vacancy occurs among its members, the Executive Committee shall appoint a person to fill such a casual vacancy and the person—

- (a) shall be appointed in the same manner as the member of the committee who occasioned the casual vacancy, and

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(b) shall hold office for the remainder of the term of office of that member. Pr.2 S.24

(9) (a) Subject to *paragraph (b)*, the Council may at any time dissolve a committee established by it under this section.

(b) Where the Executive Committee, Investigating Committee or Disciplinary Committee is dissolved under *paragraph (a)*, such committee shall be re-established as soon as practicable.

(10) When establishing a committee the Council shall have regard to the desirability of an appropriate gender balance as may be determined, from time to time, by the Minister.

(11) A committee shall provide the Council with such information as it may from time to time require, in respect of its activities and operation, for the purposes of the performance of the functions of the Council.

25.—(1) The Executive Committee shall consist of 11 members of whom not less than 6 and not more than 7 shall be members of the Council appointed in accordance with *paragraphs (a) and (b) of section 8(2)*. Membership of Executive Committee.

(2) The members of the Executive Committee shall be—

(a) the chairperson of the Council,

(b) the deputy chairperson of the Council,

(c) the chairpersons of such committees (other than the Investigating Committee or the Disciplinary Committee) as the Council considers appropriate,

(d) 2 members of the Council appointed under *paragraph (g) of section 8(2)*, and

(e) such other members of the Council as the Council considers appropriate.

(3) The chairperson of the Council shall be the chairperson of the Executive Committee.

(4) The Director shall act as secretary to the Executive Committee.

26.—The functions of the Executive Committee shall be—

Functions of Executive Committee.

(a) to facilitate and assist the Council in the performance of its functions;

(b) to prepare, in consultation with the Director, the agenda for the general meetings of the Council;

(c) to co-ordinate the activities of committees (other than the Investigating Committee or the Disciplinary Committee) and the operations of the Council generally;

(d) to fill casual vacancies in accordance with *section 24(8)*;

Pr.2 S.26

- (e) when, due to exigencies of time or for any other reason, the Council is unable to meet, to do all or any of the following:
 - (i) to act on behalf of the Council;
 - (ii) to make interim orders on behalf of the Council and any such orders shall be subject to confirmation by the Council within the period specified by the Council in its procedures which period shall not exceed 28 days from the making of the order concerned;
 - (iii) to authorise expenditure, subject to such regulations as may be made from time to time by the Council and to budgetary constraints;
- (f) to advise the Council as it considers appropriate;
- (g) to review and make recommendations to the Council in respect of the establishment, membership, terms of reference and continuance of committees;
- (h) to report, as directed from time to time by the Council, on its activities; and
- (i) to perform such other functions as the Council may from time to time delegate to it.

Membership of
Investigating
Committee.

27.—(1) The Investigating Committee shall consist of 11 members.

(2) Subject to *subsection (4)*, the members of the Investigating Committee shall be—

- (a) the deputy chairperson of the Council,
- (b) 6 members of the Council appointed under *paragraphs (a) and (b) of section 8(2)*,
- (c) 3 members of the Council appointed under *paragraphs (c), (d), (e) and (f) of section 8(2)*, and
- (d) one member of the Council appointed under *paragraph (g) of section 8(2)*.

(3) The deputy chairperson of the Council shall be the chairperson of the Investigating Committee.

(4) The Director shall act as secretary to the Investigating Committee.

(5) A member of the Disciplinary Committee shall not be eligible to be a member of the Investigating Committee.

Membership of
Disciplinary
Committee.

28.—(1) The Disciplinary Committee shall consist of 13 members.

(2) The members of the Disciplinary Committee shall be—

- (a) the chairperson of the Council,

[2001.] *Teaching Council Act, 2001.* [No. 8.]

(b) 7 members of the Council appointed under *paragraphs (a)* Pr.2 S.28 and *(b)* of *section 8(2)*,

(c) 3 members of the Council appointed under *paragraphs (c)*, *(d)*, *(e)* and *(f)* of *section 8(2)*, and

(d) 2 members of the Council appointed under *paragraph (g)* of *section 8(2)*.

(3) The chairperson of the Council shall be the chairperson of the Disciplinary Committee.

(4) The Director shall act as secretary to the Disciplinary Committee.

PART 3

REGISTRATION

29.—(1) The Council shall, as soon as practicable after the establishment day, establish and maintain in such form and manner as the Council may determine a register which shall be known as the Register of Teachers. The register.

(2) The register may be prepared, established and maintained otherwise than in a legible form subject to its being capable of being converted into a legible form and being used to make a legible copy or reproduction of any entry in the register.

(3) The Council may prescribe the information to be entered in the register and the form and manner in which such information shall be entered and maintained, which information shall include, but not necessarily be limited to, the following:

(a) in respect of each person entitled to be registered:

(i) name and address for correspondence;

(ii) date of birth;

(iii) qualifications;

(iv) whether the registration is subject to conditions under *section 31*;

(v) registration number;

(vi) date of registration;

(vii) name and address of employer;

(viii) current employment details including posts of responsibility held;

(ix) the voting category as prescribed under *section 10*;

(x) the findings of any disciplinary proceedings under *Part 5* and the period for which such information shall remain on the register;

(b) such other information as the Council, from time to time, considers appropriate.

Pr.3 S.29

(4) The Council shall publish the register in such form and manner as it considers appropriate.

(5) Every document purporting to be a copy of or extract from an entry in the register and purporting to be certified by the Director to be a true copy of or extract from such entry shall, without proof of the signature of the Director, be received in evidence in any legal proceedings and shall, until the contrary is shown, be deemed to be a true copy of or extract from such entry and shall be evidence of the terms of such entry.

(6) The register shall be kept at the offices of the Council and subject to the payment of such fee as may be prescribed under *section 23*—

(a) the register shall be made available for inspection by any person, in whole or in part, at such times and in such manner, as may be prescribed by the Council, and

(b) where a request is made by any person to the Director for a certified or uncertified copy of, or extract from, an entry in the register, the Director shall provide a copy of the entry or extract to such person.

(7) The First Schedule to the Freedom of Information Act, 1997, is amended by the inclusion in paragraph 1(2) of the following—

“the Teaching Council,”.

Employment of
registered teacher.

30.—A person who is employed as a teacher in a recognised school but—

(a) is not a registered teacher, or

(b) is removed or suspended from the register under *Part 5*,

shall not be remunerated by the school in respect of his or her employment out of moneys provided by the Oireachtas.

Registration.

31.—(1) Subject to *subsections (2) and (3)*, a person may apply to the Council for registration.

(2) A person who before the establishment day—

(a) is employed as a teacher in a recognised school and whose remuneration in respect of that employment is paid out of moneys provided by the Oireachtas, or

(b) where he or she is not so employed, he or she is eligible to be so employed,

shall be deemed to be registered for a period of 12 months from the establishment day.

(3) (a) A person referred to in *subsection (2)* shall apply to the Council for registration within the period specified in that subsection and shall, on the making of an application, be registered.

- (b) Where a person fails to apply for registration within the specified period, his or her registration shall lapse on the expiration of that period and *section 30* shall apply. Pr.3 S.31

(4) The Council may make regulations for the purposes of registration under *subsection (3)* which shall provide for, but not necessarily be limited to, all or any of the following:

- (a) the form and manner in which an application for registration shall be made;
- (b) the documentary and other evidence which shall accompany an application for registration.

(5) The Council may make regulations for the purposes of registration under this section of persons, other than those referred to in *subsection (2)*, which shall provide for, but not necessarily be limited to, all or any of the following:

- (a) the form and manner in which an application for registration shall be made;
- (b) the documentary and other evidence which shall accompany an application for registration;
- (c) the conditions for admission to the register which may include, but not necessarily be limited to the following:
 - (i) qualifications;
 - (ii) teaching experience;
 - (iii) medical fitness;
 - (iv) evidence of character,
- (d) removal from the register under *section 34* for failure to apply for renewal of registration;
- (e) correction of the register under *section 36*.

(6) The Council—

- (a) may refuse to register a person where—
 - (i) he or she does not satisfy the requirements for registration prescribed under *subsection (5)*,
 - (ii) he or she has been removed from the register under *Part 5*, or
 - (iii) before the establishment day, in respect of the person, recognition as a teacher in a primary school or registration as a teacher in a post-primary school was withdrawn by the Minister,

or

- (b) may register a person subject to conditions, including conditions as to probation, and such conditions shall be complied with within such period as may be specified by the Council.

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(7) Where the Council makes a decision, under *subsection (6)*, to refuse to register a person or to register the person subject to conditions, the Council shall, within 21 days of making the decision, inform the person, by notice in writing, of the decision and the reasons for that decision and of the rights of the person under *subsection (8)*.

(8) A person may, within 21 days of the date of service of a notice under *subsection (7)*, apply to the High Court for annulment of the decision concerned and the Court, on hearing the application, may—

- (a) confirm the decision of the Council,
- (b) annul the decision of the Council and as the Court considers appropriate—
 - (i) direct the Council to register the person with or without conditions, as the case may be, or
 - (ii) direct the Council to make a further decision,
- (c) vary the decision of the Council, or
- (d) give such other directions to the Council as the Court considers appropriate,

and the Court may make such order as to costs as it considers appropriate.

- (9) (a) When registration has been completed the Council shall issue to the registered teacher a certificate of registration in such form and manner and containing such information as the Council may prescribe.
- (b) A certificate purporting to be issued by the Council under *paragraph (a)* shall, without proof of the signature of the person purporting to sign the certificate, be evidence, until the contrary is shown, of the matters stated in the certificate.

Registration subject to conditions.

- 32.—**(1) (a) Where registration is subject to conditions to be complied with within a specified period under *section 31(6)(b)*, the person who made the application for registration may apply in writing to the Council, within the specified period, for an extension of that period.
- (b) Any extension of the specified period shall be at the discretion of the Council.

(2) Where a person fails to comply with the conditions referred to in *subsection (1)* within the specified period or any extension of that period under that subsection, the conditional registration shall lapse.

Renewal of registration.

33.—(1) Registration shall be valid for 12 months from the date of registration.

(2) Subject to the payment of such renewal fee as may be prescribed under *section 23*, a registered teacher may apply for renewal of his or her registration for further periods each of which shall not exceed 12 months.

(3) An application for renewal of registration shall be made before the expiration of the period of validity of registration. Pr.3 S.33

(4) A term of renewal of registration shall take effect from the expiration of the previous registration.

(5) On receipt of an application for renewal of registration and the prescribed fee the Council shall, as soon as practicable, send to the registered teacher a receipt stating that payment of the fee has been received and that registration has been renewed for a further 12 months.

(6) A receipt issued by the Council under *subsection (5)* shall, without proof of the signature of the person purporting to sign the receipt or that such person was the proper person so to sign, be evidence in any legal proceedings that the registration has been renewed and is current, unless the contrary is shown.

34.—(1) Where a registered teacher fails to apply for renewal of registration in accordance with *section 33*, the Council shall, upon the expiration of his or her registration, inform him or her, by notice in writing, that he or she shall be removed from the register within one month from the date of such notice unless an application is received for renewal of registration within that period together with such renewal fee for late renewal of registration as may be prescribed under *section 23*. Removal from register for failure to apply for renewal of registration.

(2) (a) Subject to *paragraph (b)*, where a registered teacher fails to apply for renewal of registration in accordance with *subsection (1)*, the Council shall remove the teacher from the register.

(b) Where an application has been made under *section 42* for an inquiry into the fitness to teach of a registered teacher, the Council shall not remove the teacher from the register under this section until such time as the Council has completed its inquiry.

(3) A registered teacher who has been removed from the register in accordance with *subsection (2)* may apply to the Council for registration and *section 31* shall apply.

35.—(1) Subject to *subsection (2)*, a registered teacher may apply in writing to the Council to be removed from the register. Removal from register on application of registered teacher.

(2) Where a registered teacher applies to be removed from the register under *subsection (1)* and an application has been made under *section 42* for an inquiry into the fitness to teach of the teacher, the Council shall not consider the application under *subsection (1)* until such time as the Council has completed its inquiry.

(3) A teacher who has been removed from the register under this section may apply to the Council for registration and *section 31* shall apply.

36.—(1) For the purpose of keeping the register correct, the Council shall, from time to time, in accordance with regulations made under *section 31*— Correction of register.

(a) correct errors in the register, and

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- (b) enter in the register every change which comes to its knowledge in respect of the information entered in the register in relation to a registered teacher.

(2) Where the Council takes any action under *subsection (1)*, it shall, as soon as practicable, by notice in writing, inform the person concerned, or, in the case where the person concerned is deceased, his or her next of kin, of any action taken and the reasons for such action.

(3) A registered teacher shall, as soon as practicable, inform the Council, by notice in writing, of—

- (a) any errors in the register of which he or she is aware in relation to his or her registration, and
- (b) any change in the information entered in the register in relation to him or her.

Information to be furnished by employer to Council.

37.—The Council may, subject to the consent of the Minister, prescribe the information to be furnished by an employer to the Council in respect of a registered teacher who is employed as a teacher where the teacher is dismissed by the employer or where he or she resigns.

PART 4

EDUCATION AND TRAINING

Review of standards required for entry into teaching profession.

38.—(1) The Council shall, from time to time—

- (a) review and accredit the programmes of teacher education and training provided by institutions of higher education and training in the State,
- (b) review the standards of education and training appropriate to a person entering a programme of teacher education and training, and
- (c) review the standards of knowledge, skill and competence required for the practice of teaching,

and shall advise the Minister and, as it considers appropriate, the institutions concerned.

(2) The Council shall consult with the Minister and with such institutions of higher education and training in the State as it considers appropriate for the purpose of the performance of its functions under *subsection (1)*.

Continuing education and training and professional development of teachers.

39.—(1) The Council shall promote the continuing education and training and professional development of teachers.

(2) Without prejudice to the generality of *subsection (1)*, the Council shall—

- (a) conduct research into the continuing education and training and professional development of teachers, and shall publish the findings arising out of such research in such form and manner as the Council thinks fit,

- (b) promote awareness among the teaching profession and the public of the benefits of continuing education and training and professional development, Pr.4 S.39
- (c) review and accredit programmes relating to the continuing education and training of teachers, and
- (d) perform such other functions in relation to the continuing education and training and professional development of teachers as may be assigned to the Council by the Minister.

40.—The Council shall ensure that the requirements relating to teacher education and training for the purposes of qualification as a teacher satisfy the minimum standards specified in any directive, regulation or other act adopted by an institution of the European Communities or in any judgement of the European Court of Justice. Duty to ensure compliance with minimum standards specified by institutions of European Communities.

PART 5

FITNESS TO TEACH

41.—For the purposes of this Part, the following shall constitute professional misconduct by a registered teacher: Professional misconduct.

- (a) engaging in conduct which is contrary to a code of professional conduct established by the Council under *section 7(2)(b)*;
- (b) engaging in any improper conduct in his or her professional capacity or otherwise by reason of which he or she is unfit to teach.

42.—(1) The Council or any person may apply to the Investigating Committee for an inquiry into the fitness to teach of a registered teacher on all or any of the following grounds: Inquiry by Investigating Committee.

- (a) he or she has failed to comply with, or has contravened any provision of, this Act, the Education Act, 1998, the Education (Welfare) Act, 2000, the Vocational Education Acts, 1930 to 1999, or any regulations, rules or orders made under those Acts;
- (b) his or her behaviour constitutes professional misconduct;
- (c) his or her registration is erroneous due to a false or fraudulent declaration or misrepresentation;
- (d) he or she is medically unfit to teach,

and an application shall, subject to this section, be considered by the Investigating Committee.

(2) An application under *subsection (1)* shall be—

- (a) in writing,
- (b) signed by the applicant, and

- (c) accompanied by such documents and information as may be relevant to the application.
- (3) (a) The Director shall act as secretary to the Investigating Committee and, subject to *paragraph (b)*, shall refer all applications made under *subsection (1)* to the Investigating Committee.
- (b) The Director shall refuse an application where—
 - (i) the application does not satisfy the requirements of *subsection (2)*, or
 - (ii) he or she considers that the application is frivolous, vexatious, is made in bad faith or is an abuse of process.
- (4) Where the Director refuses an application under *subsection (3)(b)*, the Director shall, within 21 days of the decision, inform the applicant, by notice in writing, of the decision and the reasons for the decision and the notice shall state that the applicant may appeal the decision to the Investigating Committee within 21 days of the date of service of the notice.
- (5) (a) Subject to *paragraph (b)*, the Investigating Committee shall hold an inquiry in respect of an application referred to it by the Director under *subsection (3)(a)* or appeals made under *subsection (4)*.
- (b) The Investigating Committee shall refuse to consider an application or appeal referred to in *paragraph (a)* where—
 - (i) the application or appeal does not relate to the fitness to teach of a registered teacher,
 - (ii) procedures established under sections 24 and 28 of the Education Act, 1998, or the Vocational Education Acts, 1930 to 1999, as the case may be, have not been exhausted, save where there are good and sufficient reasons for considering the application or appeal notwithstanding that fact, or
 - (iii) there is insufficient evidence to warrant an investigation.
- (6) Where the Investigating Committee, under *subsection (5)(b)*, refuses to consider an application or an appeal referred to in *subsection (5)(a)*, the Director shall, within 21 days of the decision, inform the applicant, by notice in writing, of the decision and the reasons for the decision.
- (7) (a) Where the Investigating Committee decides to hold an inquiry, the Director, shall, within 21 days of making the decision, provide the registered teacher with—
 - (i) a copy of the application and any documents and information accompanying the application, and
 - (ii) a notice stating that the registered teacher may make submissions, in writing, to the Investigating Committee within 21 days of receipt of the notice by the registered teacher.

(b) The Investigating Committee shall consider any sub- Pr.5 S.42
missions made under *paragraph (a)(ii)*.

(8) (a) The Investigating Committee may request such other information or submissions from the applicant, the registered teacher and the school concerned and may obtain such expert advice or assistance as it considers appropriate for the purposes of considering an application under this section.

(b) In the case of alleged medical unfitness, the Council may make regulations which provide for the submission of medical evidence, the making of representations and attendance for medical examination.

(9) Following its inquiry, the Investigating Committee shall make a decision to—

(a) refer the application, in whole or in part, to the Disciplinary Committee, or

(b) refuse the application,

and the Investigating Committee shall give its decision, in writing, to the Director and, in the case of a decision under *paragraph (b)*, the reasons for the decision.

(10) The Director shall, within 21 days of receiving the decision made under *subsection (9)*, provide a copy of the decision and, in the case of a decision under *paragraph (b)*, the reasons for the decision, to the following persons—

(a) the applicant,

(b) the registered teacher, and

(c) where the registered teacher is employed as a teacher, his or her employer.

43.—(1) The Disciplinary Committee shall hold an inquiry in respect of an application referred to it by the Investigating Committee under *section 42(9)(a)*. Inquiry by
Disciplinary
Committee.

(2) For the purpose of an inquiry under this section, the Director shall appoint a panel of the Disciplinary Committee consisting of not less than 3 and not more than 5 persons, of whom a majority shall be registered teachers and *Schedule 3* shall apply.

(3) Following an inquiry by a panel in accordance with *Schedule 3* and rules made under *paragraph 2* of that Schedule, the panel shall make a report of the inquiry and its findings to the Disciplinary Committee and shall specify in the report the nature of the application and the evidence laid before the panel and any other matter in relation to the registered teacher which it considers appropriate, including its opinion, having regard to the contents of the report, as to the alleged unfitness to teach or it may dismiss the application.

(4) Where the panel dismisses an application under *subsection (3)*, the Disciplinary Committee shall, as soon as practicable, by notice in writing, inform—

(a) the applicant,

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(b) the registered teacher concerned and such other persons as the teacher may request, and

(c) where the teacher is employed as a teacher, his or her employer,

and shall, at the request of the registered teacher concerned, publish a notice to that effect in such form and manner as may be determined by the Council.

Removal or suspension from register or retention subject to conditions.

44.—(1) Where a finding of unfitness to teach has been made by a panel under this Part, the Disciplinary Committee, following its consideration of the report of the inquiry made by the panel under *section 43*, may make a decision—

(a) that the registered teacher shall be removed from the register and that he or she shall not be eligible to apply to be restored to the register under *section 31* before the expiration of such period, beginning with the date of removal, as may be specified by the Disciplinary Committee in the decision,

(b) that the registered teacher shall be suspended from the register for the period specified by the Disciplinary Committee which period shall not exceed 2 years, or

(c) that the registered teacher shall be retained on the register subject to all or any of the following conditions:

(i) that the teacher seek the assistance of such service relating to teacher health and welfare as may be available;

(ii) that the teacher attend a specified professional development course, or such other course as the Disciplinary Committee considers appropriate;

(iii) the period within which the teacher shall comply with the conditions of the retention;

(iv) such other conditions as the Disciplinary Committee thinks fit.

(2) The Director shall, by notice in writing, within 21 days of the making of the decision provide a copy of the decision and the reasons for the decision to—

(a) the applicant,

(b) the registered teacher,

(c) where the registered teacher is employed as a teacher, his or her employer, and

(d) the Minister.

(3) A registered teacher may, within 21 days of the date of service of a notice under *subsection (2)*, apply to the High Court for annulment of the decision and the Court, on hearing the application, may—

(a) annul the decision,

(b) confirm the decision and as the Court considers appropriate—

- (i) direct the Council to remove the registered teacher from the register,
- (ii) direct that during a specified period (which period shall commence not earlier than 7 days after the date of the decision of the Court and shall not exceed 2 years) registration shall be suspended, or
- (iii) direct the Council to retain the registration subject to such conditions (if any) as the Court considers appropriate,

(c) vary the decision of the Disciplinary Committee, or

(d) give such other directions to the Council as the Court considers appropriate,

and the Court may make such order as to costs as it considers appropriate.

(4) If at any time the Council satisfies the High Court that the registered teacher has delayed unduly in proceeding with an application under *subsection (3)*, the Court shall, unless it sees good reason to the contrary, confirm the decision or may give such other directions to the Council as the Court considers appropriate and may make such order as to costs as it considers appropriate.

(5) Where a registered teacher does not apply to the High Court under *subsection (3)* for annulment of the decision, the Council shall, within 21 days of the expiry of the period for making an application under that subsection, or such further period as the High Court considers just and equitable in the circumstances, apply ex parte to the High Court for confirmation of the decision and, where the Council so applies, the Court, on the hearing of the application shall, unless it sees good reason to the contrary, confirm the decision or may give such other directions to the Council as the Court considers appropriate and may make such order as to costs as it considers appropriate.

(6) The decision of the High Court on an application under this section shall be final save that, by leave of the High Court or the Supreme Court, an appeal by the Council or the registered teacher, from that decision, shall lie to the Supreme Court on a specified question of law.

(7) Following a decision under this section by the High Court or the Supreme Court, as the case may be, the Council shall, as soon as practicable, by notice in writing inform the teacher, the applicant, the Minister and, where the teacher is employed as a teacher, his or her employer, of the decision.

(8) A person who has been removed from the register under this section may apply to the Council to be registered on the expiration of the period, specified under this section, within which he or she shall not be eligible to apply to be restored to the register, and *section 31* shall apply.

45.—(1) (a) Where a registered teacher is retained on the register subject to conditions in accordance with *section 44(1)(c)*, including a condition as to the period within which those conditions shall be complied with,

Compliance with conditions of retention on register.

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the teacher may apply in writing to the Disciplinary Committee, within the period specified, for an extension of that period.

- (b) Any extension of the specified period shall be at the discretion of the Disciplinary Committee.

(2) Where a person fails to comply with the conditions referred to in *subsection (1)* within the specified period or any extension of that period, he or she shall be removed from the register and *section 44* shall apply as if removal under this subsection were removal under *section 44*.

Termination of suspension from register.

46.—Where a registered teacher has been suspended from the register under *section 44*, on the expiration of the period of suspension specified under that section, he or she shall be restored to the register subject to the payment of such fee as may be prescribed under *section 23*.

Application by Council to High Court for order suspending registration.

47.—(1) Where the Council is satisfied that it is in the public interest, the Council may, in relation to a registered teacher, apply to the High Court for an order that during the period specified in the order his or her registration shall be suspended.

(2) An application under this section may be made in a summary manner and shall be heard otherwise than in public.

(3) The High Court may, on an application being made to it under this section, make such interim or interlocutory order (if any) as it considers appropriate.

(4) Following a decision under this section by the High Court, the Council shall, as soon as practicable, by notice in writing, inform the teacher, the Minister and, where the teacher is employed as a teacher, his or her employer, of the decision.

PART 6

DISSOLUTION OF REGISTRATION COUNCIL

Repeal of Intermediate Education (Ireland) Act, 1914.

48.—The Intermediate Education (Ireland) Act, 1914, is repealed with effect from the establishment day.

Dissolution of Registration Council.

49.—(1) The Registration Council shall, on the establishment day, become and be dissolved.

(2) References to the Registration Council in an enactment (other than this Act) or in an instrument made thereunder or in the memorandum or articles of association of any company (within the meaning of the Companies Acts, 1963 to 1999) or any other legal document shall be construed, on and after the establishment day, as references to the Council.

Pending legal proceedings.

50.—(1) Where, immediately before the establishment day, any legal proceedings are pending in any court or tribunal and the Registration Council or any trustee or agent acting on its behalf is a party to the proceedings, the name of the Council shall be substituted in the proceedings for that of the Registration Council or, as the case may be, the trustee or agent, or added in those proceedings as may be appropriate, and those proceedings shall not abate by reason of the substitution.

(2) The Minister shall, out of moneys provided by the Oireachtas, indemnify the Council against all costs incurred by it in or in connection with legal proceedings referred to in *subsection (1)*. Pr.6 S.50

51.—(1) With effect from the establishment day the following are transferred to the Council— Transfer of assets and liabilities.

- (a) all rights and property and rights relating to such property held or enjoyed immediately before that day by the Registration Council or any trustee or agent acting on its behalf, and
- (b) all liabilities incurred before that day by the Registration Council or any trustee or agent acting on its behalf that had not been discharged before that day,

and, accordingly, without any further conveyance, transfer or assignment—

- (i) the said property, real and personal, shall, on that day, vest in the Council for all the estate, term or interest for which, immediately before that day, it was vested in the Registration Council or any trustee or agent acting on its behalf, but subject to all trusts and equities affecting the property and capable of being performed,
- (ii) those rights shall, on and from that day, be enjoyed by the Council, and
- (iii) those liabilities shall, on and from that day, be liabilities of the Council.

(2) All moneys, stocks, shares and securities transferred to the Council by this section which, immediately before the establishment day, are standing in the name of the Registration Council or any trustee or agent thereof, shall, upon the request of the Council, be transferred into its name.

(3) Every right and liability transferred to the Council by this section may, on and after the establishment day, be sued on, recovered or enforced by or against the Council in its own name and it shall not be necessary for the Council to give notice of the transfer to the person whose right or liability is transferred by this section.

(4) The Council shall not, without the consent of the Minister, dispose of any part of any land or any interest therein transferred to or vested in the Council under this section.

52.—Every bond, guarantee or other security of a continuing nature made or given by or on behalf of the Registration Council to any person or given by any person to and accepted by or on behalf of the Registration Council and every contract or agreement made between the Registration Council, or any trustee or agent acting on its behalf, and any other person, and in force but not fully executed and completed immediately before the establishment day shall continue in force on and after that day and shall be construed and have effect as if the name of the Council were substituted therein for that of the Registration Council or, as the case may be, any trustee or agent acting on its behalf, and shall be enforceable by or against the Council. Preservation of certain continuing contracts and adaptation of references.

PART 7

MISCELLANEOUS

Arrangements with
persons to assist
Council.

53.—The Council may make and carry out arrangements with any person or body of persons for the purpose of assisting the Council or any of its committees in the proper discharge of its functions.

Assignment of
additional functions.

54.—The Minister may by regulation, from time to time, as he or she considers necessary or appropriate, following consultation with the Council and any other Minister of the Government who in the opinion of the Minister is concerned, confer on the Council such additional functions and, consequentially, modify any existing function of the Council, connected with or relating to—

(a) teacher education and training or any other matter relating to the teaching profession and teachers, or

(b) the services or activities that the Council is authorised for the time being to provide or carry on,

including functions for the purpose of giving effect to—

(i) any provision of the treaties governing the European Communities,

(ii) any directive, regulation or other act adopted by an institution of the European Communities, or

(iii) a judgement of the European Court of Justice,

relating to teachers or the teaching profession.

Annual report.

55.—(1) Subject to *subsection (2)*, the Council shall prepare and publish, in such form and manner as it considers appropriate, a report of its activities and proceedings under this Act.

(2) A report under *subsection (1)* shall be prepared—

(a) in the case of the first such report, at the end of one year after the establishment day, and

(b) thereafter, at the end of one year following the preparation of the preceding report.

(3) The Council shall provide the Minister with a copy of the report and the Minister shall cause the report to be laid before each House of the Oireachtas.

Offences and
penalties in relation
to register.

56.—A person who—

(a) falsely represents that he or she is a registered teacher, or

(b) fraudulently makes use of a certificate of registration issued under this Act to such person or to any other person, or

(c) makes, or causes to be made, any false declaration or representation for the purpose of obtaining registration under this Act or aids or abets any other person in the making of any such false declaration or representation,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or, at the discretion of the court, to both such fine and imprisonment. Pr.7 S.56

57.—(1) Where a member or employee (including the Director) of the Council or a member of a committee, or a consultant, adviser or other person engaged by the Council, has a pecuniary interest or other beneficial interest in, or material to, any matter which falls to be considered by the Council or a committee, he or she shall comply with the following requirements: Disclosure of interests.

- (a) he or she shall disclose to the Council or committee, as the case may be, the fact of such interest and the nature of the interest in advance of any consideration of the matter;
- (b) he or she shall neither influence nor seek to influence a decision in relation to the matter;
- (c) he or she shall take no part in any consideration of the matter;
- (d) if he or she is a member or employee of the Council or a member of a committee, he or she shall withdraw from the meeting concerned for so long as the matter is being discussed or considered and shall not vote or otherwise act as such member or employee in relation to the matter;
- (e) he or she shall not vote on a decision relating to the matter.

(2) For the purposes of this section, but without prejudice to the generality of *subsection (1)*, a person shall be regarded as having a beneficial interest if—

- (a) the person or any member of his or her household, or any nominee of his or her or of any member of his or her household, is a member of a company or any other body which has a beneficial interest in, or material to, a matter referred to in that subsection,
- (b) the person or any member of his or her household is in partnership with or is in the employment of a person who has a beneficial interest in, or material to, such a matter,
- (c) the person or any member of his or her household is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a matter relates, or
- (d) any member of his or her household has a beneficial interest in, or material to, such a matter.

(3) For the purposes of this section a person shall not be regarded as having a beneficial interest in, or material to, any matter by reason only of an interest of the person or of any company or of any other body or person mentioned in *subsection (2)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question with respect to the matter, or in performing any function in relation to that matter.

Pr.7 S.57

(4) Where at a meeting of the Council a question arises as to whether or not a course of conduct, if pursued by a person, would constitute a failure by the person to comply with the requirements of *subsection (1)*, the question shall be determined by the Council, whose decision shall be final, and particulars of the determination shall be recorded in the minutes of the meeting.

(5) Where a disclosure is made under this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being considered or discussed by the meeting, the person by whom the disclosure is made, where he or she is a member of the Council, shall not be counted in the quorum for the meeting unless the Council otherwise determines.

(6) Subject to *paragraph 3(2)* of *Schedule 1*, where a person referred to in this section fails to make a disclosure in accordance with this section, the Council or committee, as the case may be, shall decide the appropriate action to be taken.

Disclosure of information.

58.—(1) Save as otherwise provided by law and subject to *subsection (3)*, a person shall not, without the consent of the Council, disclose confidential information obtained by him or her while carrying out, or as a result of having carried out, duties as—

- (a) a member of the Council,
- (b) an employee of the Council (including the Director),
- (c) a member of a committee, or
- (d) an adviser or consultant to the Council or a committee or an employee of such person.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

(3) Nothing in *subsection (1)* shall prohibit the disclosure of information by means of a report made to the Council or, by or on behalf of the Council, to the Minister.

(4) In this section “confidential information” includes information that is expressed by the Council or a committee, as the case may be, to be confidential either as regards particular information or as regards information of a particular class or description.

Privilege in respect of certain matters.

59.—(1) Utterances made by a person to whom this section applies for the purposes of the performance of the functions of the Council or a committee under this Act, shall be absolutely privileged and such utterances, and documents, or records, in any form prepared by a person to whom this section applies, for the purpose of such performance and reports of the Council or a committee, shall be absolutely privileged wherever and however published.

(2) In this section “a person to whom this section applies” means—

- (a) a member of the Council,
- (b) an employee of the Council,

(c) a member of a committee, or

Pr.7 S.59

(d) an adviser or consultant to the Council or a committee or an employee of such person.

60.—A statement or admission made by a person before an inquiry under *Part 5* by the Council or a committee or in a document prepared for and sent by a person to the Council or a committee, or to a member of the Council or a committee, or a member of the staff of the Council or a committee, for the purposes of an inquiry under *Part 5* by the Council or a committee, shall not be admissible as evidence against the person, or any person who may be liable for the acts or omissions of the person, in any criminal proceedings (other than proceedings in relation to an offence under *paragraph 6(2)* of *Schedule 3*), or in any civil proceedings in a court or other tribunal.

Non-admissibility of certain evidence.

61.—(1) Proceedings in relation to an offence under this Act may be brought and prosecuted by the Council.

Prosecution of offences.

(2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within 12 months from the date of the offence.

62.—(1) Subject to *subsection (4)*, a notice required to be served or given by or under this Act shall be addressed to the person concerned and served or given in one of the following ways:

Service of notices.

(a) by addressing it to the person by name and delivering it to him or her;

(b) by leaving it at the address at which the person ordinarily resides;

(c) by sending it by post in a prepaid registered letter addressed to the person at the address at which he or she ordinarily resides;

(d) if an address for the service of notices has been furnished by the person, by leaving it at, or sending it by prepaid registered post addressed to him or her, to that address.

(2) Where the name of the person concerned cannot be ascertained by reasonable inquiry, a notice under this Act may be addressed to “the occupier”, “the owner” or “the person in charge”, as the case may be.

(3) For the purposes of this section, a company registered under the Companies Acts, 1963 to 1999, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) *Subsection (1)* shall not apply to a notice referred to in *Schedule 1*.

SCHEDULE 1

Section 5.

MEMBERSHIP AND MEETINGS OF COUNCIL

1. In this Schedule, except where the context otherwise requires, “member” means a member of the Council, including the chairperson.

2. (1) The Council shall, as soon as practicable after its establishment, provide itself with and retain in its possession a seal.

(2) The seal of the Council shall be authenticated by the signature of—

(a) the chairperson of the Council or other member of the Council authorised by the Council to act in that behalf, and

(b) an employee of the Council authorised by the Council to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Council and an instrument purporting to be an instrument made by the Council and to be sealed with its seal (purporting to be authenticated in accordance with *subparagraph (2)*) shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

3. (1) The Minister may at any time, for stated reasons, remove from office a member who was appointed to the Council by the Minister under *section 8(2)(g)*.

(2) The Council may at any time, for stated reasons, remove a member from office (including, subject to *paragraph 6(2)(c)*, the chairperson) other than a member appointed to the Council by the Minister under *section 8(2)(g)*.

(3) A member (other than the chairperson) may at any time resign from office as a member by notice in writing to the chairperson and the resignation shall take effect on the date of the meeting of the Council next held after receipt by the Council of the notice.

(4) A registered teacher elected or nominated as a member under *section 8(2)(a)* or *(b)* shall cease to be a member on his or her ceasing to be a registered teacher.

(5) A member (including the chairperson) who is absent from all meetings of the Council for 6 consecutive months, unless the absence was due to illness or was approved of by the Council, shall cease to be a member at the expiration of that period.

4. (1) Subject to *paragraph 5*, the Minister, when appointing members under *section 8*, shall specify each member’s term of office which—

(a) in the case of a member of the first Council, shall not exceed 3 years, and

(b) in the case of a member of each subsequent Council, shall not exceed 4 years,

unless the member dies, resigns or becomes disqualified.

(2) (a) Subject to *clause (b)*, a member shall not serve more than 2 consecutive terms of office. SCH. 1

(b) A term of office as a member of the first Council shall not be included for the purposes of *clause (a)*.

(3) The terms of office referred to in *subparagraph (2)* shall include any term of office as chairperson.

5. (1) Where a casual vacancy occurs among the members (other than the chairperson or those appointed by election) the Council shall, as soon as practicable, notify the Minister who shall, as soon as practicable, following consultation with such body or organisation as he or she considers appropriate, appoint a person to fill such a casual vacancy and a person so appointed shall, subject to this Schedule, hold office for the remainder of the term of office of the member whose death, resignation, removal from office or ceasing for any other reason to hold office occasioned the casual vacancy.

(2) Where a casual vacancy occurs among the members appointed by election, the Council shall co-opt a person who would, under this Act, be eligible to be so appointed and a person so co-opted shall hold office as a member for the remainder of the term of office of the member whose death, resignation, removal from office or ceasing for any other reason to hold office occasioned the casual vacancy.

6. (1) The Council shall, from time to time, elect from among its members—

(a) a chairperson, and

(b) a deputy chairperson.

(2) The chairperson and deputy chairperson shall each hold office for such term as may be specified by the Council at the time of his or her appointment, unless—

(a) he or she ceases to be, or becomes disqualified from being, a member,

(b) he or she resigns the office of chairperson or deputy chairperson, or

(c) the Council by a resolution, of which not less than 7 days notice of the intention to propose is given to each member and for which not less than two-thirds of the members vote, removes the chairperson or deputy chairperson as chairperson or deputy chairperson.

(3) The chairperson or deputy chairperson may at any time resign from office by notice in writing to the Council and the resignation shall take effect on the date of the meeting of the Council next held after the receipt by the Council of the notice.

(4) Where, at an election of the chairperson or deputy chairperson, 2 or more persons receive an equal number of votes, it shall be determined by lot which of those persons shall be chairperson or deputy chairperson.

7. (1) The Minister shall fix the date, time and place of the first meeting of the Council.

[No. 8.] *Teaching Council Act, 2001.* [2001.]

(2) The Council shall hold at least 3 meetings in each year and such and so many other meetings and at such times as the chairperson may determine.

8. (1) Subject to *subparagraph (2)*, the quorum for a meeting of the Council shall be 15.

(2) Where, at a meeting of the Council, the matter of the removal of a registered teacher from the register is on the agenda, the quorum shall be 20.

9. (1) The Director, or in his or her absence the chairperson, shall convene a meeting of the Council when requested so to do by not less than 10 members.

(2) If the Director, or in his or her absence the chairperson, refuses to convene a meeting of the Council under *subparagraph (1)*, any 5 members may, as soon as practicable, convene a meeting of the Council.

(3) If the Director, or in his or her absence the chairperson, without refusing, does not, within 7 days after a request for that purpose has been made to him or her under *subparagraph (1)*, convene a meeting of the Council, any 5 members may, on the expiration of that period, convene a meeting of the Council.

10. (1) At least 3 days before a meeting of the Council notice of the time and place of the meeting shall be sent to each member of the Council signed—

(a) by the Director or chairperson, or

(b) if the meeting is convened by members, by those members.

(2) If the meeting is convened by members, the notice convening the meeting shall specify the business to be transacted at that meeting.

11. At a meeting of the Council—

(a) the chairperson shall, if present, be the chairperson of the meeting, or

(b) if and so long as the chairperson is not present, or if the office of chairperson is vacant, the deputy chairperson shall, if present, be the chairperson of the meeting, or

(c) if and so long as the chairperson is not present or the office of chairperson is vacant, and the deputy chairperson is not present or the office of deputy chairperson is vacant, the members who are present shall choose one of their number to preside at that meeting.

12. Minutes of the proceedings of all meetings of the Council shall be drawn up and entered in a book kept for that purpose and such minutes shall be signed by the chairperson of the next subsequent meeting.

13. The names of all members present at a meeting of the Council shall be recorded in the minutes of the proceedings of the meeting.

14. Subject to *paragraphs 6(4) and 8—*

SCH. 1

- (a) at a meeting of the Council every act of the Council and every question coming before the Council shall be determined by a majority of the votes of members (including the chairperson) present and voting in relation to the act or question, and
- (b) in the case of an equal division of votes on any question arising at a meeting of the Council (other than the election of the chairperson or deputy chairperson) the chairperson or other person presiding at that meeting shall have a second or casting vote.

15. Subject to *paragraph 8*, the Council may act notwithstanding one or more than one vacancy among its members or any deficiency in the appointment of a member which may subsequently be discovered.

16. Save as is otherwise provided by any enactment, including this Act, the Council may make, from time to time, such standing orders as it thinks fit for the regulation of its proceedings and may amend or revoke such standing orders.

SCHEDULE 2

Section 11.

THE DIRECTOR

1. The Director shall perform his or her functions subject to such policies as may be determined from time to time by the Council and shall be answerable to the Council for the efficient and effective management of the Council and for the due performance of his or her functions.

2. (1) The Director may delegate any of his or her functions to an employee of the Council, unless they are so delegated to the Director subject to the condition that they shall not be sub-delegated, and the employee concerned shall be accountable to the Director for the performance of the functions so delegated.

(2) Notwithstanding any such delegation, the Director shall at all times remain accountable to the Council for the performance of the functions so delegated.

3. The Director shall not hold any other office or position without the consent of the Council.

4. The Director shall hold office subject to such terms and conditions (including terms and conditions relating to remuneration, fees and allowances for expenses) as the Council, with the consent of the Minister and the Minister for Finance, may from time to time determine.

5. The Director shall not be a member of the Council or a committee, but he or she or his or her nominee may, in accordance with procedures established by the Council or the committee, as the case may be, attend meetings of the Council or a committee and shall be entitled to speak at and advise such meetings.

SCHEDULE 3

Section 43.

APPOINTMENT OF PANEL UNDER SECTION 43

1. (1) Where an application for an inquiry into the fitness to teach of a registered teacher has been referred to the Disciplinary Committee under *section 42(9)(a)*, the Director shall invite members of the Disciplinary Committee to become members of a panel for the purposes of an inquiry under *section 43* and shall set out in general terms the issue to be considered.

(2) The date of appointment of a panel shall be the date on which the Director is in receipt of written notices of acceptance of the members of the Disciplinary Committee of their appointment to a panel.

(3) Notwithstanding any vacancies in the membership of the Disciplinary Committee, a panel may be appointed from among its members.

2. The procedures of a panel shall be laid down, from time to time, in rules made by the Council, with the consent of the Minister.

3. The Disciplinary Committee shall appoint the chairperson of a panel from among the members of the panel.

4. (1) The Director shall act as secretary to a panel.

(2) The Council shall make available to a panel such services, including staff, as it may reasonably require.

5. Subject to such rules as may be made under *paragraph 2*, a panel may, at the request or with the consent of the registered teacher concerned, hold an inquiry under *section 43* by an examination of the relevant documents and written submissions from the applicant and the registered teacher in place of an oral hearing.

6. (1) A panel shall, for the purpose of an inquiry under this section, have the powers, rights and privileges vested in the High Court or a judge thereof on the hearing of an action in respect of—

(a) the enforcement of the attendance of witnesses and their examination on oath or otherwise, and

(b) the compelling of the production of documents,

and a summons signed by the chairperson of the panel or by such other member of the panel as may be authorised by the panel for that purpose may be substituted for and shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of documents.

(2) Where—

(a) a person on being summoned to attend before a panel for the purpose of an inquiry under *section 43* fails to attend, or

(b) a person, in attendance as a witness before a panel, refuses to take an oath lawfully required by the panel to be taken, or to produce any document in his or her power or control lawfully required by the panel to be produced

[2001.] *Teaching Council Act, 2001.* [No. 8.]

by him or her or to answer any question to which the panel may lawfully require an answer, or SCH. 3

- (c) a person, in attendance before a panel, does anything which, if the panel were a court of law having power to commit for contempt, would be contempt of court,

such person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

(3) A witness before a panel shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.