

## SCHEDULES

### SCHEDULE 1

Section 1(9).

#### GENERAL TEACHING COUNCIL FOR ENGLAND

##### *Status of Council*

- 1 The Council shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the property of the Council shall not be regarded as property of, or property held on behalf of, the Crown.

##### *Powers*

- 2 (1) The Council may, subject to sub-paragraph (3), do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of their functions.
- (2) In particular, the Council may—
- (a) acquire and dispose of land or other property;
  - (b) enter into contracts;
  - (c) invest sums not immediately required for the purpose of carrying out their functions;
  - (d) accept gifts of money, land or other property;
  - (e) form bodies corporate or associated or other bodies which are not bodies corporate;
  - (f) enter into joint ventures with other persons;
  - (g) subscribe for shares and stock; and
  - (h) borrow money.
- (3) The consent of the Secretary of State is required for the exercise of any power conferred by sub-paragraph (2)(e), (f), (g) or (h).

##### *Chairman and members of Council*

- 3 (1) Regulations may make provision with respect to—
- (a) the appointment or election of one of the members of the Council to be chairman of the Council,
  - (b) the period for which the chairman is to hold office, and
  - (c) the appointment or election and tenure of office of, and the vacation of office by, members of the Council.
- (2) Regulations made under this paragraph before the establishment of the Council may enable the Secretary of State to make provision with respect to any of the matters referred to in sub-paragraph (1); but regulations made under this paragraph after the Council have been established may authorise the Council to make rules with respect to any such matters.

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*Salaries, allowances, pensions and other payments*

- 4 (1) The Council—
- (a) shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine, and
  - (b) shall, as regards any member in whose case the Secretary of State may so determine, pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (2) If a person ceases to be a member of the Council and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the Council to make to that person a payment of such amount as the Secretary of State may determine.
- (3) The Council shall pay to the members of any of their committees who are not members of the Council such travelling, subsistence and other allowances as the Secretary of State may determine.
- (4) The Council may pay to the employer of a person who is a member of the Council (or a member of any of their committees but not a member of the Council) such compensation in respect of the loss of that person's services as the Secretary of State may determine.

*Staff*

- 5 (1) The Council may (subject to sub-paragraph (5)) appoint a chief officer and such other employees as they think fit.
- (2) The Council shall pay to their employees such remuneration and allowances as the Council may determine.
- (3) The employees shall be appointed on such other terms and conditions as the Council may determine.
- (4) A determination under sub-paragraph (2) or (3) requires the approval of the Secretary of State.
- (5) The Secretary of State shall appoint the first chief officer who shall be employed on such terms and conditions as the Secretary of State may determine.
- 6 (1) The Council, with the consent of the Secretary of State, may—
- (a) pay, or make payments in respect of, pensions or gratuities to or in respect of employees or former employees;
  - (b) provide and maintain such schemes (whether contributory or not) for the payment of pensions and gratuities to or in respect of employees or former employees.
- (2) References in this paragraph to pensions and gratuities include references to pensions or gratuities by way of compensation to or in respect of employees who suffer loss of employment or loss or diminution of emoluments.
- (3) If any person—
- (a) on ceasing to be employed by the Council, becomes or continues to be one of their members, and

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(b) was, by reference to his employment, a participant in a pension scheme maintained by the Council,

the Council may, with the consent of the Secretary of State, make provision for that person to continue to participate in that scheme, on such terms and conditions as they may with the consent of the Secretary of State determine, as if his service as a member were service as an employee; and any such provision shall be without prejudice to paragraph 4.

- 7 (1) Employment with the Council shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply.
- (2) The Council shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.
- (3) Where an employee of the Council is, by reference to that employment, a participant in a scheme under section 1 of that Act and is also a member of the Council, the Secretary of State may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee (whether or not any benefits are payable to or in respect of him by virtue of paragraph 4).

#### *Finance*

- 8 The Secretary of State may make grants to the Council of such amounts and subject to such terms and conditions as he may determine.

#### *Committees*

- 9 (1) The Council—
- (a) may establish a committee for any purpose; and
  - (b) if so required by regulations, shall establish such committees for such purposes as are specified in the regulations.
- (2) Subject to sub-paragraph (3), the Council shall determine the number of members which a committee established under this paragraph are to have, and the terms on which they are to hold and vacate office.
- (3) Regulations under sub-paragraph (1)(b) may make provision as to—
- (a) the membership of a committee established under the regulations;
  - (b) the terms on which such a committee's members are to hold and vacate office; and
  - (c) the procedure of any such committee;
- and such regulations may authorise the Council to make provision with respect to any matter as to which provision may be made by those regulations.
- (4) Subject to such conditions as may be imposed by such regulations, the Council may include on a committee persons who are not members of the Council.

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### *Delegation of functions*

- 10 (1) The Council may authorise the chairman, the chief officer or any committee established under paragraph 9 to exercise such of their functions as they may determine.
- (2) Sub-paragraph (1) has effect without prejudice to any power to authorise an employee of the Council to carry out any of the Council's activities on behalf of the Council.

### *Proceedings*

- 11 (1) The following persons, namely—
- (a) two representatives of the Secretary of State, and
  - (b) one representative of such body as the Secretary of State may designate,
- shall be entitled to attend and take part in deliberations (but not in decisions) at meetings of the Council or of any committee of the Council.
- (2) The Council shall provide the Secretary of State with such copies of any documents distributed to members of the Council or of any such committee as he may require.
- 12 The validity of the Council's proceedings shall not be affected by a vacancy among the members or any defect in the appointment of a member.
- 13 Subject to the preceding provisions of this Schedule, the Council may regulate their own procedure and that of any of their committees.

### *Accounts*

- 14 (1) It shall be the duty of the Council—
- (a) to keep proper accounts and proper records in relation to the accounts,
  - (b) to prepare in respect of each financial year of the Council a statement of accounts, and
  - (c) to send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.
- (2) The statement of accounts shall comply with any directions given by the Secretary of State as to—
- (a) the information to be contained in it,
  - (b) the manner in which the information contained in it is to be presented, or
  - (c) the methods and principles according to which the statement is to be prepared,
- and shall contain such additional information as the Secretary of State may require to be provided for the information of Parliament.
- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.
- (4) In this paragraph "financial year" means the period beginning with the date on which the Council are established and ending with the 31st March following that date, and each successive period of twelve months.

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*Annual reports*

- 15 The Council—
- (a) shall make an annual report to the Secretary of State, who shall lay a copy of it before each House of Parliament; and
  - (b) may arrange for any such report to be published in such manner as the Council consider appropriate.

*Application of seal and proof of instruments*

- 16 The application of the seal of the Council shall be authenticated by the signature—
- (a) of the chairman or of some other person authorised either generally or specially by the Council to act for that purpose, and
  - (b) of one other member.
- 17 Every document purporting to be an instrument made or issued by or on behalf of the Council and to be duly executed under the seal of the Council, or to be signed or executed by a person authorised by the Council to act in that behalf, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

SCHEDULE 2

Section 6.

DISCIPLINARY POWERS OF COUNCIL

*Investigation, hearing and determination of disciplinary cases*

- 1 (1) Regulations may make provision for and in connection with the investigation by the Council of cases where—
- (a) it is alleged that a registered teacher—
    - (i) is guilty of unacceptable professional conduct or serious professional incompetence, or
    - (ii) has been convicted (at any time) of a relevant offence, or
  - (b) it appears to the Council that a registered teacher may be so guilty or have been so convicted,
- and the hearing and determination by the Council of such cases where it is found on investigation that a registered teacher has a case to answer.
- (2) The regulations may, in particular, make provision—
- (a) requiring the Council, where any proceedings are being taken against any person under this Schedule—
    - (i) to serve a notice on him outlining the case against him, and
    - (ii) to give him the opportunity of appearing and making oral representations;
  - (b) entitling such a person to be represented, by any person whom he desires to represent him, at any hearing of the Council at which his case is considered;
  - (c) requiring the Council, where they do not find the case against such a person proved, to publish at his request a statement to that effect;
  - (d) empowering the Council to require persons to attend and give evidence or to produce documents or other material evidence;

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- (e) about the admissibility of evidence;
  - (f) enabling the Council to administer oaths;
  - (g) for the procedure to be followed by the Council in connection with proceedings under this Schedule to be such as may be specified in or determined under the regulations.
- (3) No person shall be required by virtue of the regulations to give any evidence or produce any document or other material evidence which he could not be compelled to give or produce in civil proceedings in any court in England and Wales.
- (4) The regulations may make provision for any functions conferred on the Council by virtue of sub-paragraph (1) to be excluded or restricted in such manner as may be specified in or determined under the regulations, including such provision for excluding or restricting any such functions as the Secretary of State considers appropriate with a view to taking account of any powers exercisable by him, by virtue of section 218(6) of the Education Reform Act 1988, on the grounds of the safety and welfare of persons under the age of 19.
- (5) In framing any regulations under section 218(6) of that Act the Secretary of State may similarly take account of the functions conferred on the Council by virtue of sub-paragraph (1) (so far as not excluded or restricted by virtue of sub-paragraph (4)); and any such regulations may include provision with respect to the allocation of cases between the Secretary of State and the Council and the reference of cases by one of them to the other.

*Disciplinary orders: general*

- 2 (1) Regulations may make provision for and in connection with authorising the Council to make disciplinary orders in relation to persons who in proceedings under this Schedule are found by the Council—
- (a) to have been guilty of unacceptable professional conduct or serious professional incompetence; or
  - (b) to have been convicted (at any time) of a relevant offence.
- (2) The regulations may, in particular, make provision—
- (a) for the Council to serve on any such person notice of the disciplinary order which has been made in relation to him, and of his right to appeal against the order under paragraph 6;
  - (b) as to the time when any such order takes effect, whether in a case where any such person exercises that right of appeal or otherwise;
  - (c) for the Council to publish, in such manner as may be prescribed, such information relating to the case of any such person and any disciplinary order made by the Council as may be prescribed.
- (3) In this Schedule a “disciplinary order” means—
- (a) a reprimand,
  - (b) a conditional registration order,
  - (c) a suspension order, or
  - (d) a prohibition order.

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#### *Conditional registration orders*

- 3 (1) Where a conditional registration order is made in relation to a person, he shall continue to be eligible for registration under section 3, but he shall comply with such conditions relevant to his employment as a teacher as may be specified in the order.
- (2) Without prejudice to the generality of sub-paragraph (1)—
- (a) the conditions which may be specified in a conditional registration order include conditions for requiring the person in question to take any specified steps that will, in the opinion of the Council, be conducive to his becoming a competent teacher; and
  - (b) conditions may be so specified (whether for the purpose mentioned in paragraph (a) or otherwise) that will involve expenditure on the part of that person.
- (3) Subject to sub-paragraph (4), any condition specified in a conditional registration order shall have effect either—
- (a) for such period as may be so specified, or
  - (b) without limit of time.
- (4) A person in relation to whom a conditional registration order has been made may, in accordance with regulations, apply to the Council for them to vary or revoke any condition specified in the order.
- (5) Regulations may make provision authorising the Council, if satisfied that such a person has failed to comply with any such condition, to make a suspension or prohibition order in relation to him.

#### *Suspension orders*

- 4 Where a suspension order is made in relation to a person—
- (a) he shall cease to be eligible for registration under section 3, and
  - (b) if he is a registered teacher at the time when the order is made, his name shall be removed from the register accordingly,
- but he shall become so eligible again at the end of such period not exceeding two years as may be specified in the order.

#### *Prohibition orders*

- 5 (1) Where a prohibition order is made in relation to a person—
- (a) he shall cease to be eligible for registration under section 3, and
  - (b) if he is a registered teacher at the time when the order is made, his name shall be removed from the register accordingly,
- and he shall not become so eligible again unless the Council, on an application made by him in accordance with regulations, so direct.
- (2) No such application may be made before the end of the period of two years beginning with the date when the prohibition order takes effect or such longer period as may be specified in the order.

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*Appeals against disciplinary orders*

- 6 (1) Regulations shall make provision for conferring on a person aggrieved by a disciplinary order made in relation to him under this Schedule a right to appeal against the order to the High Court within 28 days from the date on which notice of the order is served on him.
- (2) On such an appeal the Court may make any order which appears appropriate.
- (3) No appeal shall lie from any decision of the Court on such an appeal.

*Supplementary provisions*

- 7 (1) Regulations may make provision for such incidental and supplementary matters as the Secretary of State considers appropriate in connection with any of the preceding provisions of this Schedule, including provision—
- (a) for the Council, where a disciplinary order takes effect in relation to a person, to serve notice of the order on that person’s employer;
  - (b) requiring the employer of any such person to take in relation to that person such steps in consequence of the order (which may include his dismissal) as may be prescribed;
  - (c) authorising the delegation of functions conferred by virtue of this Schedule and the determination of matters by any person or persons specified in the regulations.
- (2) Regulations may also, in relation to any time after the date specified in an order under section 8(1), make provision for securing that any disciplinary order made under this Schedule as it applies in relation to England or (as the case may be) Wales has the corresponding effect in relation to Wales or (as the case may be) England.
- (3) Regulations under sub-paragraph (2) may modify any provision of this Act.

*Interpretation*

- 8 (1) In this Schedule—
- “disciplinary order” has the meaning given by paragraph 2(3);
  - “registered teacher” includes—
    - (a) a person who was a registered teacher at the time of any alleged conduct or offence on his part, and
    - (b) a person who has made an application to be registered under section 3;
  - “relevant offence”, in relation to a registered teacher, means—
    - (a) in the case of a conviction in the United Kingdom, a criminal offence other than one having no material relevance to his fitness to be a registered teacher, and
    - (b) in the case of a conviction elsewhere, an offence which, if committed in England and Wales, would constitute such an offence as is mentioned in paragraph (a);
  - “unacceptable professional conduct” means conduct which falls short of the standard expected of a registered teacher.
- (2) Where regulations under paragraph 9(1)(b) of Schedule 1 require the Council to establish a committee for the purpose of discharging any of the functions conferred



on them by virtue of this Schedule, references in this Schedule to the Council shall be construed, in relation to those functions, as references to that committee.

### SCHEDULE 3

Section 44(1).

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Public Records Act 1958 (c. 51)*

- 1 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part II of the Table at the end of paragraph 3 (organisations whose records are public records), insert at the appropriate places—

“General Teaching Council for England.”,

“General Teaching Council for Wales.”

##### *Superannuation Act 1972 (c. 11)*

- 2 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which schemes may apply), in the list of “Other Bodies”, insert at the appropriate places—

“A body corporate created by virtue of section 59A(2)(c) of the Further and Higher Education (Scotland) Act 1992.”,

“General Teaching Council for England.”,

“General Teaching Council for Wales.”

##### *House of Commons Disqualification Act 1975 (c. 24)*

- 3 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices) insert at the appropriate places—

“Any member of the General Teaching Council for England in receipt of remuneration.”,

“Any member of the General Teaching Council for Wales in receipt of remuneration.”

##### *Education (Scotland) Act 1980 (c. 44)*

- 4 In section 133 of the Education (Scotland) Act 1980 (regulations)—
- (a) in subsection (2), at the beginning insert “Subject to subsections (2A) and (2B) below,”; and
  - (b) after subsection (2) insert—

“(2A) Subsection (2) above shall not apply to the first regulations to be made under section 73(f) of this Act with respect to loans; and no such regulations shall be made (whether alone or with other regulations) unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.

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(2B) Subsection (2) above shall not apply to any regulations under section 73(f) of this Act with respect to loans, other than the regulations mentioned in subsection (2A) above, where a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

*Education (Fees and Awards) Act 1983 (c. 40)*

5 In section 1(6) of the Education (Fees and Awards) Act 1983 (fees at further education establishments), for “section 27(6) of the Education Act 1980” substitute “section 218(9) of the Education Reform Act 1988”.

*Education Reform Act 1988 (c. 40)*

6 In section 232(6) of the Education Reform Act 1988 (orders and regulations: provision for Wales) omit “other than section 218(1)(b) or (c), (5) or (6)”.

*Further and Higher Education Act 1992 (c. 13)*

7 In section 17 of the Further and Higher Education Act 1992 (“further education corporation” and “operative date”), at the end of subsection (1) add “or which has become a further education corporation by virtue of section 47 of this Act”.

8 In section 90(3) of that Act (interpretation), after ““university”” insert “(except where the context otherwise requires)”.

*Charities Act 1993 (c. 10)*

9 In section 3 of the Charities Act 1993 (the register of charities), after subsection (5) insert—

“(5A) In subsection (5) above, paragraph (a) shall be read as referring also to—

- (a) any higher education corporation within the meaning of the Education Reform Act 1988, and
- (b) any further education corporation within the meaning of the Further and Higher Education Act 1992.”

*Employment Rights Act 1996 (c. 18)*

10 After section 47 of the Employment Rights Act 1996 insert—

**“47A Employees exercising right to time off work for study or training**

(1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer or the principal (within the meaning of section 63A(3)) done on the ground that, being a person entitled to—

- (a) time off under section 63A(1) or (3), and
- (b) remuneration under section 63B(1) in respect of that time taken off, the employee exercised (or proposed to exercise) that right or received (or sought to receive) such remuneration.

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- (2) Except where an employee is dismissed in circumstances in which, by virtue of section 197, Part X does not apply to the dismissal, this section does not apply where the detriment in question amounts to dismissal (within the meaning of that Part).”
- 11 In section 48 of that Act (complaints to employment tribunals)—
- (a) in subsection (1) for “46 or 47” substitute “46, 47 or 47A”; and
- (b) at the end insert—
- “(5) In this section and section 49 any reference to the employer includes, where a person complains that he has been subjected to a detriment in contravention of section 47A, the principal (within the meaning of section 63A(3)).”
- 12 In section 58 of that Act (right to time off for occupational pension scheme trustees), at the end of subsection (3) add “, and
- (c) references to training are to training on the employer’s premises or elsewhere.”
- 13 In section 104 of that Act (assertion of statutory right) at the end insert—
- “(5) In this section any reference to an employer includes, where the right in question is conferred by section 63A, the principal (within the meaning of section 63A(3)).”
- 14 In section 225 of that Act (rights during employment), after subsection (4) insert—
- “(4A) Where the calculation is for the purposes of section 63B, the calculation date is the day on which the time off was taken or on which it is alleged the time off should have been permitted.”

*Education Act 1996 (c. 56)*

- 15 In section 578 of the Education Act 1996 (meaning of “the Education Acts”), insert at the appropriate place—
- “the Teaching and Higher Education Act 1998”.

SCHEDULE 4

Section 44(2).

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1962 c. 12.	Education Act 1962.	The whole Act.
1973 c. 16.	Education Act 1973.	Section 3.
1980 c. 20.	Education Act 1980.	Section 19. Schedule 5.
1983 c. 40.	Education (Fees and Awards) Act 1983.	In section 2(3), paragraph (a) and in paragraph (b) the word “other”.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1988 c. 40.	Education Reform Act 1988.	Section 209.  In section 218(1)(c), the words “schools and”.  In section 232(6), the words “other than section 218(1)(b) or (c), (5) or (6)”.
1990 c. 6.	Education (Student Loans) Act 1990.	The whole Act.
1993 c. 10.	Charities Act 1993.	In Schedule 2, paragraphs (h) and (j).
1996 c. 9.	Education (Student Loans) Act 1996.	The whole Act.
1996 c. 56.	Education Act 1996.	In section 578, the entries relating to the Education Act 1962 and the Education (Student Loans) Acts of 1990, 1996 and 1998.  In Schedule 37, paragraphs 4 to 7 and 98.
1998 c. 1.	Education (Student Loans) Act 1998.	The whole Act.

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