



# Teaching Council (Scotland) Act 1965

## 1965 CHAPTER 19

### *Disciplinary Provisions*

#### **10 Investigating and Disciplinary Committees**

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- (d) any application for registration by any person who has been a certificated teacher but whose certificate has been withdrawn on the ground of misconduct, or suspended on that ground, and not restored under any enactment in force before the commencement of this Act.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

chairman of the Council) who has acted as a member of the Investigating Committee with respect to any case shall act as a member of the Disciplinary Committee with respect to that case ;

- (b) the times and places of the meetings, the quorum and the mode of summoning the members, of the Disciplinary Committee.

- (5) The provisions of Schedule 2 to this Act shall have effect with respect to the procedure of the Disciplinary Committee.

## 11 Decisions of Disciplinary Committee

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

## 12 Appeals

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