

## SCHEDULES

### SCHEDULE 1

Section 1.

#### THE COUNCIL

#### PART I

##### *Constitution of the Council*

- 1 (1) Subject to the provisions of this Schedule the Council shall consist of 44 persons, comprising—
- (a) 25 persons representing registered teachers (in this Schedule referred to as "elected members");
  - (b) 15 persons (in this Schedule referred to as "appointed members") appointed as follows:—
    - (i) two by the Association of County Councils in Scotland ;
    - (ii) two by the Scottish Counties of Cities Association ;
    - (iii) three by the Association of Directors of Education in Scotland ;
    - (iv) four by the universities of Scotland ;
    - (v) two by the governing bodies of the central institutions ;
    - (vi) one by the Education Committee of the General Assembly of the Church of Scotland ;
    - (vii) one by the Scottish Hierarchy of the Roman Catholic Church;
  - (c) 4 persons (in this Schedule referred to as "nominated members") nominated by the Secretary of State.
- (2) The elected members shall comprise:—
- (a) 5 registered teachers employed in colleges of education, including 4 (but not more than 4) principals ;
  - (b) 2 registered teachers employed in further education centres, including 1 (but not more than 1) principal;
  - (c) 9 registered teachers employed in secondary schools, including 5 (but not more than 5) head teachers ;
  - (d) 9 registered teachers employed in primary schools, including 5 (but not more than 5) head teachers.
- (3) In the foregoing provisions of this paragraph references to primary schools and to secondary schools include respectively references to primary departments and secondary departments of schools having departments of different grades; references to the universities of Scotland and to the central institutions shall be construed, in relation to any appointment, as references respectively to the universities of Scotland and the central institutions established at the time when the appointment falls to be made ; and—
- (a) "employed" means employed on a whole-time basis; and

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- (b) "further education centre" means an institution for the provision of further education but does not include—
- (i) a university, a theological college or a hostel or other residence used exclusively by students attending university or theological college, or
  - (ii) a central institution, a college of education, a hostel used mainly by pupils attending central institutions or colleges of education, or, unless the Secretary of State otherwise directs, a residential institution conducted under a scheme under the Educational Endowments (Scotland) Acts 1928 to 1935 or Part VI of the Education (Scotland) Act 1946 or Part VI of the Act of 1962.
- (4) The elected members who are principals of colleges of education shall be elected by the principals of those colleges.
- (5) The elected members other than the principals of colleges of education shall, subject to paragraph 2 of this Schedule, be elected in accordance with the provisions of a scheme made under the next following sub-paragraph.
- (6) For the purpose of the last foregoing sub-paragraph the Council shall, within two years of their establishment, make a scheme, which shall include provision for—
- (a) the appointment of a returning officer and of such staff as may be necessary;
  - (b) the making up of a roll of electors consisting of all registered teachers whether in employment as such or not, showing the category of elected member for which each registered teacher is entitled to vote ;
  - (c) the giving of notice of the holding of an election ;
  - (d) the nomination of candidates ;
  - (e) any other matter necessary for the holding of the elections.
- (7) A scheme made under the last foregoing sub-paragraph may be modified or revoked by a subsequent scheme made by the Council under that sub-paragraph.
- (8) A scheme made under this paragraph shall not come into force until approved by the Secretary of State by order.
- 2 (1) In respect of the initial membership of the Council the foregoing paragraph shall have effect in relation to elected members as if any reference in that paragraph to registered teachers included a reference to certificated teachers, and as if sub-paragraphs (5) to (8) thereof were omitted ; and the elected members other than the principals of colleges of education shall be elected by certificated teachers, being teachers employed in educational establishments and in approved schools, in accordance with arrangements made by the Secretary of State.
- (2) Arrangements made for the purposes of the foregoing sub-paragraph shall secure—
- (a) that a teacher shall not be eligible to be elected unless he is, on such date as may be determined by or under the arrangements, employed in an educational establishment of one of the categories referred to in paragraph 1(2) of this Schedule ; and
  - (b) that each teacher shall be entitled to vote only in respect of an elected member employed in an educational establishment of the same category as that in which he himself is employed on that date ;
- and shall provide for the determination by the Secretary of State of the category in which a teacher is employed.

- 3 (1) No person shall take office as a member of the Council (whether on election or re-election) after attaining the age of 70 years.
- (2) No person shall be eligible for election or re-election if by virtue of this paragraph he would be prohibited from taking office in pursuance of that election or re-election ; but a person who attains the said age during a period of office in respect of which he has been duly elected or re-elected shall not thereby vacate office.
- (3) The two last foregoing sub-paragraphs shall apply to appointment and nomination, and re-appointment and re-nomination, as they apply to election and re-election.
- 4 (1) Subject to paragraph 5(3) of this Schedule the period of office of members of the Council shall be four years.
- (2) A member shall vacate office—
- (a) on the expiration of his period of office ;
  - (b) on the taking effect of any notice of resignation given by him to the Council;
  - (c) on his estate being sequestrated or on his executing a trust deed for creditors, whichever first occurs.
- (3) Nothing in this paragraph shall prevent the election or re-election of a person who has ceased to be a member, or will have so ceased at or before the commencement of the term of office to which the election or re-election relates.
- (4) The last foregoing sub-paragraph shall apply to appointment and nomination, and to re-appointment and re-nomination, as it applies to election and re-election.
- 5 (1) Where an elected member dies or vacates office before the expiration of his period of office the vacancy shall be filled by the person who, in the election of that member, obtained the second highest number of votes; whom failing, by the person who in that election obtained the next highest number of votes, and so on; and if no such person is available the Council shall fill the vacancy by co-opting such registered teacher or certificated teacher as they think fit, being a teacher of like electoral qualifications as the said member.
- (2) Where an appointed or nominated member dies or vacates office before the expiration of his period of office the vacancy shall be filled by the appointment or, as the case may be, nomination of another person by the body, group of bodies or person who appointed or nominated the member who has died or vacated office.
- (3) In relation to a member who takes office by virtue of this paragraph, paragraph 4 of this Schedule shall have effect as if, for the reference in sub-paragraph (1) thereof to four years, there v/ere substituted a reference to the unexpired part of the period of office of the member who has died or vacated office.
- 6 (1) The Secretary of State may, if owing to a change of circumstances he considers it expedient to do so, and after consultation with the Council and any other body or person who appears to him to be concerned, by order amend the foregoing provisions of this Part of this Schedule:
- Provided that an order under this paragraph shall not reduce the proportion which the number of members of the Council who are elected members (other than principals of colleges of education) bears, under the said foregoing provisions, to the total number of members.
- (2) An order under this paragraph may contain such consequential and ancillary provisions as the Secretary of State thinks necessary for the purposes of the order.

## PART II

### *Supplementary provisions relating to the Council*

#### *Incorporation*

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

#### *Powers*

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

#### *Chairman*

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

#### *Assessors*

- 10 The Secretary of State may appoint not more than two persons to be assessors for him at the proceedings of the Council; and each such assessor (or in his absence from any proceedings such other person as may be nominated by him for the purpose of those proceedings) shall be entitled to attend and speak at the proceedings of the Council and of any committee thereof except the Investigating Committee and the Disciplinary Committee ; but no assessor shall be entitled to vote at any such proceedings.

#### *Proceedings*

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

#### *Standing orders*

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

#### *Expenses and accounts*

- 13 (1) Any fees payable by virtue of this Act in respect of the entry, or retention of a name on, or the restoration of a name to, the register shall be paid to the Council, and any

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expenses of the Council shall be defrayed out of the sums received by the Council either on account of those fees or otherwise.

- (2) The Council shall keep proper accounts of all sums received or paid by them, and proper records in relation to those accounts, and the accounts for each financial year of the Council shall be audited by auditors appointed by the Council; and as soon as any accounts of the Council have been audited the Council shall cause them to be published, and shall send a copy of them to the Secretary of State, together with a copy of any report of the auditors thereon.
- (3) No person shall be qualified to be appointed as an auditor under this paragraph unless he is a member of one or more of the following bodies:—
- the Institute of Chartered Accountants of Scotland ;
  - the Institute of Chartered Accountants in England and Wales ;
  - the Institute of Chartered Accountants in Ireland ;
  - the Association of Certified and Corporate Accountants ;
  - any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Board of Trade ;
- but a Scottish firm may be so appointed if each of the partners thereof is qualified to be so appointed.

#### *Officials*

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

#### *Allowances for members*

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

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

- 16 (1) The Council shall appoint a committee, consisting of not more than one-third of the members of the Council, to review from time to time the principles specified in any statement under section 8 of this Act, and shall delegate to that committee the functions of the Council in dealing, in accordance with those principles, with applications for registration by virtue of section 6(2)(c) of this Act.
- (2) Any person aggrieved by a decision of the said committee refusing that person's application for registration shall be entitled to require the Council to review the

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decision ; and in relation to any such review no person, other than the chairman of the Council, who was a member of the said committee at the time when its decision was taken shall be entitled to take part in the proceedings of the Council.

- (3) Where the Council in pursuance of the last foregoing sub-paragraph review a decision of the said committee they shall afford to the applicant, if he so desires, an opportunity of appearing before them and being heard in relation to the review.
- (4) Where the said committee or the Council, under sub-paragraph (1) or, as the case may be, sub-paragraph (2) of this paragraph, refuse a person's application for registration, the committee or, as the case may be, the Council shall cause notice of the refusal to be served on that person; and any such notice shall include a statement of the reasons for the refusal.

#### *Other committees*

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

## SCHEDULE 2

Section 10.

### PROCEDURE OF DISCIPLINARY COMMITTEE

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

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

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