

## SCHEDULES

### 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;
  - (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

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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.

*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—

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- (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.

#### *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;

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- (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.