



Teaching and Higher Education Act 1998

1998 CHAPTER 30

PART I

THE TEACHING PROFESSION

CHAPTER I

THE GENERAL TEACHING COUNCILS

The General Teaching Council for England

1 The General Teaching Council for England

- (1) There shall be a body corporate which, subject to subsection (10), shall be known as the General Teaching Council for England (in this Act referred to as “the Council”).
- (2) The principal aims of the Council in exercising their functions are—
 - (a) to contribute to improving the standards of teaching and the quality of learning, and
 - (b) to maintain and improve standards of professional conduct amongst teachers, in the interests of the public.
- (3) The functions conferred on the Council by or under this Chapter—
 - (a) are exercisable by them in relation to both England and Wales at any time before the date specified in an order under section 8(1) (establishment of General Teaching Council for Wales); and
 - (b) are exercisable by them in relation to England only at any time on or after that date.
- (4) In exercising their functions, the Council shall have regard to the requirements of persons who are disabled persons for the purposes of the Disability Discrimination Act 1995.

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- (5) The Council shall be constituted in accordance with regulations made by the Secretary of State; and regulations under this subsection may authorise the Council to make rules with respect to such matters relating to their constitution as may be specified in the regulations.
- (6) In exercising his power to make regulations under subsection (5), the Secretary of State shall have regard to the desirability of the Council's membership reflecting the interests of—
- (a) teachers,
 - (b) employers of teachers,
 - (c) providers of teacher training,
 - (d) persons concerned with the teaching of persons with special educational needs,
 - (e) religious bodies involved in the provision of education,
 - (f) parents of pupils,
 - (g) commerce and industry, and
 - (h) the general public,
- and such other interests as in the opinion of the Secretary of State will enable the Council to carry out their functions more effectively.
- (7) Regulations under subsection (5) must be framed so as to secure that a majority of the members of the Council are registered teachers who—
- (a) either are for the time being employed or otherwise engaged to provide their services as teachers or have had such recent employment or engagement as teachers as may be prescribed; and
 - (b) satisfy such other criteria as to eligibility for appointment or election to the Council as may be prescribed.
- (8) In relation to appointments made or elections held before a register is established under section 3, the reference in subsection (7) to registered teachers is a reference to qualified teachers within the meaning of section 218(2) of the Education Reform Act 1988.
- (9) Schedule 1 to this Act has effect in relation to the Council.
- (10) At any time before the date mentioned in subsection (3)(a), the Council shall be known as the General Teaching Council for England and Wales; and—
- (a) in relation to any time before that date, references to the Council in any enactment shall accordingly be construed as references to the General Teaching Council for England and Wales, and
 - (b) any reference to the Council by that name in an instrument or document made before that date shall be construed on or after that date as a reference to the General Teaching Council for England.

Functions of the General Teaching Council for England

2 **Advisory functions of General Teaching Council for England**

- (1) The Council shall from time to time advise—
- (a) the Secretary of State, and
 - (b) such other persons or bodies as he may from time to time designate,

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on such matters falling within subsection (2) as they think fit.

- (2) Those matters are—
 - (a) standards of teaching;
 - (b) standards of conduct for teachers;
 - (c) the role of the teaching profession;
 - (d) the training, career development and performance management of teachers;
 - (e) recruitment to the teaching profession; and
 - (f) medical fitness to teach.
- (3) The Council shall also advise the Secretary of State—
 - (a) on such matters falling within subsection (2), or
 - (b) on such other matters relating to teaching,as he may from time to time require.
- (4) The Council may be required under subsection (3)(b) to advise the Secretary of State on any matter relevant to a decision by him as to whether any power exercisable by him by virtue of section 218(6) of the Education Reform Act 1988 (prohibition or restriction on employment of teachers) should or should not be exercised in any particular case.
- (5) The Council may give advice on such matters falling within subsection (2) as they think fit to such persons or bodies as they may from time to time determine.
- (6) Any advice given by the Council on matters falling within subsection (2) shall be advice of a general nature.
- (7) The Council may publish advice given by them under subsection (1), (3) or (5).

3 Registration of teachers

- (1) The Council shall establish and maintain a register of teachers (“the register”).
- (2) The register shall contain the name of every person who is eligible for registration and applies to be registered in the register in accordance with regulations made under section 4.
- (3) A person is eligible for registration if he is a qualified teacher within the meaning of section 218(2) of the Education Reform Act 1988 and he is not for the time being—
 - (a) prohibited from being employed, or otherwise engaged to provide his services, as a teacher as the result of a direction given by the Secretary of State by virtue of section 218(6) of that Act (prohibition or restriction on employment of teachers), or
 - (b) subject to a disciplinary order made under Schedule 2 to this Act by virtue of which he is not eligible for registration, or
 - (c) disqualified from being employed as a teacher in any school by virtue of an order made—
 - (i) by an Independent Schools Tribunal under section 470 of the Education Act 1996, or
 - (ii) by the Secretary of State under section 471 of that Act, or
 - (d) (subject to such exceptions as may be prescribed by, or determined by the Secretary of State under, regulations) ineligible for registration as a teacher,

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or disqualified from being a teacher in any school, by virtue of any prescribed provision of the law of Scotland or of Northern Ireland.

- (4) Except in such circumstances as may be prescribed, a person is not eligible for registration if, having served an induction period in accordance with regulations under section 19, he has failed to complete it satisfactorily for the purposes of those regulations.

4 Regulations relating to registration

- (1) Regulations may make provision as to the form and manner in which the register is to be kept and other matters relating to registration.
- (2) Regulations under this section may, in particular, make provision as to—
- (a) the form and manner in which applications for registration are to be made;
 - (b) the documentary and other evidence which is to accompany applications for registration;
 - (c) the registration, on the establishment of the register, of persons who have not made such applications;
 - (d) the matters which are to be recorded in the register against the names of those registered in it;
 - (e) the division of the register into separate parts;
 - (f) the restoration and alteration of entries and their transfer between different parts of the register (where separate parts are required by virtue of paragraph (e));
 - (g) the charging by the Council of fees authorised by virtue of subsection (4);
 - (h) the removal of entries from the register in circumstances where the persons concerned—
 - (i) have ceased to be eligible for registration, or
 - (ii) have failed to pay any such fee,
 or otherwise;
 - (i) the issue and form of certificates of registration;
 - (j) the information contained in the register which may be made available for inspection by members of the public, and the circumstances in which and the conditions subject to which that information may be made available.
- (3) Regulations made in pursuance of subsection (2)(d) may require the recording of any restrictions for the time being in force in relation to a person as the result of—
- (a) a direction given by the Secretary of State by virtue of section 218(6) of the Education Reform Act 1988 (prohibition or restriction on employment of teachers), or
 - (b) a disciplinary order made under Schedule 2 to this Act.
- (4) For the purposes of subsection (2)(g) regulations under this section may authorise the Council (subject to such exceptions as may be provided for by or under the regulations) to charge fees fixed by them with the approval of the Secretary of State in respect of—
- (a) applications for registration or for the restoration of entries in the register;
 - (b) registration in accordance with subsection (2)(c); or
 - (c) the retention of entries in the register;
- and the regulations may accordingly authorise the Council to refuse an application falling within paragraph (a) above until the appropriate fee has been paid.

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- (5) Regulations under this section may authorise the Council to make provision in relation to any matter as to which provision may be made by regulations under this section.

5 Code of practice for registered teachers

- (1) Regulations may make provision for, and in connection with, authorising the Council to issue, and from time to time revise, a code laying down standards of professional conduct and practice expected of registered teachers.
- (2) Regulations under this section may, in particular, make provision—
- (a) as to the consequences of any failure by a registered teacher to comply with the provisions of the code;
 - (b) for the provision by the Council of copies of the code, either on payment of a reasonable charge decided by the Council or, in such circumstances as may be determined in accordance with the regulations, free of charge.
- (3) Regulations made in pursuance of subsection (2)(a) may provide for any failure by a registered teacher to comply with the provisions of the code to be taken into account in any proceedings against him under Schedule 2.

6 Disciplinary powers of Council in relation to registered teachers

Schedule 2 (which makes provision for certain disciplinary powers to be conferred on the Council in relation to registered teachers and persons applying for registration) shall have effect.

7 Additional and ancillary functions of Council

- (1) The Secretary of State may by order confer or impose on the Council such additional functions as he considers they may appropriately discharge in conjunction with any of their other functions under this Chapter.
- (2) Before making an order under subsection (1), the Secretary of State shall carry out such consultation as appears to him to be appropriate.
- (3) Without prejudice to the generality of subsection (1), the Secretary of State may under that subsection require the Council to give him such assistance as he may specify in relation to the exercise of his power under section 218(2) of the Education Reform Act 1988 to determine, in accordance with regulations made under that provision, whether a person is a qualified teacher.
- (4) Without prejudice to the generality of subsection (1), the Secretary of State may under that subsection require the Council to maintain records relating to such categories of persons (including persons not eligible to be registered under section 3) as may be prescribed; and the records shall contain such information relating to those persons and be kept in such manner as may be prescribed.
- (5) The Council shall carry out such functions ancillary to their functions under this Chapter as the Secretary of State may direct.

*The General Teaching Council for Wales***8 The General Teaching Council for Wales**

- (1) The Secretary of State may by order make provision for the establishment of a body corporate to be known as *Cyngor Addysgu Cyffredinol Cymru* or the General Teaching Council for Wales to exercise in relation to Wales, as from such date as may be specified in the order, the functions conferred on them by or under this Chapter.
- (2) An order under subsection (1) may provide for any provision of section 1 or Schedule 1 to have effect in relation to the General Teaching Council for Wales as it has effect in relation to the Council, subject to such modifications (if any) as are specified in the order.
- (3) Where such an order is made after the Council have begun to exercise any function in relation to Wales (in accordance with section 1(3)), the order may include provision—
 - (a) for the transfer of staff; and
 - (b) for the transfer of property, rights and liabilities held, enjoyed or incurred in connection with that function by the Council.
- (4) So far as any such function relates to registration under section 3, the order shall make provision for persons previously registered or applying for registration under that section in its application in relation to Wales in accordance with section 1(3) to be treated as registered or applying for registration under that section as it applies in relation to Wales in accordance with section 9(1).
- (5) Subject to subsection (6), stamp duty shall not be chargeable in respect of any transfer to the General Teaching Council for Wales effected by virtue of subsection (3).
- (6) No instrument (other than a statutory instrument) made or executed in pursuance of subsection (3) shall be treated as duly stamped unless—
 - (a) it is stamped with the duty to which it would, but for this section, be liable, or
 - (b) it has, in accordance with the provisions of section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.

*Functions of the General Teaching Council for Wales***9 Functions of General Teaching Council for Wales: general**

- (1) As from the date specified under section 8(1), the following provisions, namely—
 - sections 2 to 5,
 - section 6 together with Schedule 2, and
 - section 7,
 shall apply to the General Teaching Council for Wales in relation to Wales as they apply to the Council in relation to England.
- (2) The Secretary of State may require the General Teaching Council for Wales to undertake (or join with any other person or body in undertaking) activities designed to promote—
 - (a) recruitment to the teaching profession, or
 - (b) the continuing professional development of teachers.

- (3) Without prejudice to the generality of subsection (2), such activities may include—
- (a) giving advice;
 - (b) organising conferences and lectures; and
 - (c) arranging for the publication of material in any form.

10 Further functions of General Teaching Council for Wales in relation to teachers

- (1) This section has effect in relation to regulations made under subsection (2) or (3) of section 218 of the Education Reform Act 1988 (regulations relating to schools, etc.) as they apply to teachers at schools.
- (2) The Secretary of State may make provision in such regulations for a determination under those regulations to be made (after their establishment) by the General Teaching Council for Wales.
- (3) The Secretary of State may make provision in such regulations—
- (a) for any determination made under those regulations as they apply in relation to England to be treated, in relation to Wales, as if it were a determination made under those regulations as they apply in relation to Wales, and
 - (b) for any determination made under those regulations as they apply in relation to Wales to be treated, in relation to England, as if it were a determination made under those regulations as they apply in relation to England.

Supplementary

11 Registration requirement for teachers at schools

In section 218(1) of the Education Reform Act 1988 (regulations relating to schools, etc.), after paragraph (a) there shall be inserted—

- “(aa) for requiring persons employed as teachers at schools, subject to such exceptions as may be provided for by or under the regulations, to be registered in accordance with section 3 of the Teaching and Higher Education Act 1998 by the General Teaching Council for England or (after their establishment) by the General Teaching Council for Wales;”.

12 Deduction of fees from salaries, etc

- (1) Regulations may, in relation to teachers to whom this section applies, make provision requiring employers of such teachers (subject to such exceptions as may be provided for by or under the regulations)—
- (a) to deduct (or arrange for the deduction) from the salary of such teachers any fee payable by virtue of section 4(4) in respect of the registration or retention of an entry on the register relating to any such teacher, and
 - (b) to remit that fee to the relevant Council.
- (2) This section applies to teachers at schools who, on such date or during such period as may be specified in the regulations, are—
- (a) registered in the register, or

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- (b) required as a consequence of their employment to be so registered by virtue of section 218(1)(aa) of the Education Reform Act 1988.
- (3) The regulations may make provision with respect to—
 - (a) the arrangements to be adopted by employers of teachers to whom this section applies for the deduction and remittance of fees,
 - (b) the administration charges which may be deducted from any fees remitted to the relevant Council, and
 - (c) the notification to the relevant Council by employers of such teachers of such particulars relating to those teachers as the regulations may specify.
- (4) In this section—
 - “relevant Council” means the Council or (after their establishment) the General Teaching Council for Wales;
 - “salary” includes any remuneration payable in respect of services as a teacher;
 - “schools” means such schools as are referred to in section 218(12) of the Education Reform Act 1988.

13 Consultation about qualified teacher status

In section 218 of the Education Reform Act 1988, after subsection (2A) there shall be inserted—

“(2AA) Before making any regulations under subsection (2) or (2A) or making any provision by virtue of regulations made under those subsections as to the standards required of a person who wishes to become a qualified teacher, the Secretary of State shall consult either or both of the following (as appropriate)

-
- (a) the General Teaching Council for England, and
- (b) after their establishment, the General Teaching Council for Wales.”

14 Supply of information relating to teachers: general

- (1) The Secretary of State shall supply the Council or the General Teaching Council for Wales with such information relating to individual teachers as he considers it to be necessary or desirable for them to have for the purpose of carrying out any of the functions conferred on them by or under this Chapter.
- (2) Each of those Councils shall supply the Secretary of State with such information as he may request for the purpose of—
 - (a) statistical analysis, or
 - (b) any other function of his relating to teachers.
- (3) The Secretary of State may by regulations require either Council to supply information—
 - (a) to such other person or body, and
 - (b) for such purposes and subject to such conditions, as may be prescribed.
- (4) Without prejudice to the generality of subsection (3), once the General Teaching Council for Wales have been established, that Council and the General Teaching

Council for England shall each supply the other with such information as it is necessary or desirable for that other Council to have for the purpose of carrying out any of the functions conferred on them by or under this Chapter.

- (5) This section does not limit the circumstances in which information may be supplied apart from this section.

15 Supply of information relating to dismissal or resignation of teachers

Regulations may make provision requiring employers of persons falling within section 218(6) of the Education Reform Act 1988 to provide all or any of the following, namely—

- (a) the Secretary of State,
- (b) the General Teaching Council for England, and
- (c) the General Teaching Council for Wales,

with prescribed information in respect of cases where such persons are dismissed on the grounds of misconduct or incompetence or on medical grounds, or resign in circumstances where their employers would have dismissed them, or considered dismissing them, on any such grounds had they not resigned.

The General Teaching Council for Scotland

16 Duty to have regard to needs of disabled persons

At the end of section 1 of the Teaching Council (Scotland) Act 1965 (establishment of General Teaching Council for Scotland) there shall be inserted—

- “(3) In exercising their functions, the Council shall have regard to the requirements of persons who are disabled persons for the purposes of the Disability Discrimination Act 1995.”

17 Representation of special educational needs teachers on General Teaching Council for Scotland

In paragraph 1 of Schedule 1 to the Teaching Council (Scotland) Act 1965 (composition of General Teaching Council for Scotland), after sub-paragraph (8) there shall be inserted—

- “(9) In nominating members of the Council under sub-paragraph (1)(c) above, the Secretary of State shall have regard to the desirability of the membership of the Council reflecting the interests of persons concerned with the teaching of persons with special educational needs.”