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*Number 31 of 2015*

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**Teaching Council (Amendment) Act 2015**

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**TEACHING COUNCIL (AMENDMENT) ACT 2015**

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CONTENTS

Section

1. Definition
2. Amendment of section 2 of Principal Act
3. Amendment of section 7 of Principal Act
4. Amendment of section 8 of Principal Act
5. Amendment of section 24 of Principal Act
6. Amendment of section 27 of Principal Act
7. Amendment of section 28 of Principal Act
8. Amendment of section 29 of Principal Act
9. Amendment of section 30 of Principal Act
10. Amendment of section 31 of Principal Act
11. Pending applications for registration under section 31 of Principal Act
12. Information necessary to obtain vetting disclosure
13. Amendment of section 32 of Principal Act
14. Amendment of section 33 of Principal Act
15. Renewal of registration subject to conditions
16. Sharing of information in a vetting disclosure obtained under section 33
17. Conditions on registration applicable on renewal of registration
18. Amendment of section 34 of Principal Act
19. Amendment of section 35 of Principal Act
20. Amendment of section 42 of Principal Act
21. Amendment of section 43 of Principal Act
22. Use of information in vetting disclosures in inquiry under section 43
23. Offences - panel inquiry
24. Withdrawal of complaint
25. Amendment of section 44 of Principal Act
26. Amendment of section 45 of Principal Act
27. Notification to Minister, employer and other body of certain matters relating to sanctions

28. Information Council may publish in public interest
29. Amendment of section 47 of Principal Act
30. Amendment to section 60 of Principal Act
31. Amendment to Schedule 3 to Principal Act
32. Amendment of section 24 of Education Act 1998
33. Repeals
34. Short title, collective citation and commencement

ACTS REFERRED TO

Education (Amendment) Act 2012 (No. 14)

Education (Welfare) Act 2000 (No. 22)

Education Act 1998 (No. 51)

Education Acts 1878 to 2012

Education and Training Boards Act 2013 (No. 11)

Education for Persons with Special Educational Needs Act 2004 (No. 30)

National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (No. 47)

Teaching Council Act 2001 (No. 8)

Teaching Council Acts 2001 to 2012





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*Number 31 of 2015*

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## **TEACHING COUNCIL (AMENDMENT) ACT 2015**

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An Act to amend the Teaching Council Act 2001; to amend the Education Act 1998 and to provide for related matters. [27th July, 2015]

**Be it enacted by the Oireachtas as follows:**

### **Definition**

1. In this Act “Principal Act” means the Teaching Council Act 2001.

### **Amendment of section 2 of Principal Act**

2. Section 2 of the Principal Act is amended—

- (a) in subsection (1)—

- (i) by the insertion of the following definitions:

“ ‘Act of 1998’ means the Education Act 1998;

‘Act of 2012’ means the National Vetting Bureau (Children and Vulnerable Persons) Act 2012;

‘*Act of 2015*’ means the *Teaching Council (Amendment) Act 2015*;

‘centre for education’ has the same meaning as it has in the Act of 1998;

‘child’ has the same meaning as it has in the Act of 2012;

‘complainant’ means a person (including the Council) who makes a complaint under subsection (1) or subsection (1D), as the case may be, of section 42;

‘delivery of home tuition’ shall be construed in accordance with subsection (1A) (inserted by *section 2(b)* of the *Act of 2015*);

‘Garda Central Vetting Unit’ has the same meaning as it has in the Act of 2012;

‘GCVU disclosure’ means vetting information in respect of a person received from the Garda Central Vetting Unit before the commencement of the Act of 2012;

‘harm’ has the same meaning as it has in the Act of 2012;

‘poor professional performance’ means, in relation to a registered teacher, a failure by the registered teacher to meet the standards of competence (whether in knowledge, skill or the application of knowledge and skill or both) that can be reasonably expected of a registered teacher;

‘relevant organisation’ has the same meaning as it has in the Act of 2012;

‘specified information’ has the same meaning as it has in the Act of 2012;

‘vetting disclosure’ has the same meaning as it has in the Act of 2012;

‘vetting procedures’ has the same meaning as it has in the Act of 2012;

‘vulnerable person’ has the same meaning as it has in the Act of 2012.”,

(ii) by the substitution of the following definition for the definition of “panel”:

“ ‘panel’ means a panel of the Disciplinary Committee established under section 43(3);”,

(iii) by the deletion of the definition of “professional misconduct”,

and

(b) by the insertion of the following subsection after subsection (1):

“(1A) In this Act, a reference to the delivery of home tuition is a reference to any work or activity consisting of the provision of home tuition by a person pursuant to a scheme administered and funded by the Department of Education and Skills and known as the Home Tuition Scheme.”.

### **Amendment of section 7 of Principal Act**

**3.** Section 7 of the Principal Act is amended—

(a) in subsection (2)—

(i) by the insertion of the following paragraph after paragraph (b):

“(ba) obtain or receive vetting disclosures for the purposes set out in this Act, for the purpose of its role as a relevant organisation or for the purpose of its role as a relevant organisation representing another relevant organisation for the purposes of the vetting procedures under the Act of 2012;”,

and

(ii) by the substitution of the following paragraph for paragraph (n):

“(n) act as a competent authority within the meaning of Regulation 2(1) of the Recognition of Professional Qualifications (Directive



2005/36/EC) Regulations 2008 (S.I. No. 139 of 2008);”,

and

(b) in subsection (3), by—

- (i) the substitution, in paragraph (b), of “advice,” for “advice, and”,
- (ii) the substitution, in paragraph (c), of “Northern Ireland, and” for “Northern Ireland.”, and
- (iii) the insertion of the following paragraph after paragraph (c):

“(d) have regard to the need to protect children and vulnerable persons.”.

#### **Amendment of section 8 of Principal Act**

4. Section 8(2) of the Principal Act is amended—

(a) in paragraph (c)—

(i) by the substitution of the following subparagraph for subparagraph (iii):

“(iii) Marino Institute of Education;”,

and

(ii) by the substitution of the following subparagraph for subparagraph (iv):

“(iv) National University of Ireland, Maynooth;”,

and

(b) by the substitution of the following paragraph for paragraph (d):

“(d) 2 persons nominated jointly by the following bodies:

- (i) National College of Art and Design;
- (ii) National University of Ireland, Cork;
- (iii) National University of Ireland, Dublin;
- (iv) National University of Ireland, Galway;
- (v) National University of Ireland, Maynooth;
- (vi) Dublin University;
- (vii) University of Limerick;
- (viii) Dublin City University;
- (ix) St. Angela’s College of Education, Sligo;
- (x) such other bodies, providing university or other higher education and training, as the Council may determine.”.

**Amendment of section 24 of Principal Act****5.** Section 24 of the Principal Act is amended—

- (a) by the insertion of the following subsection after subsection (2):

“(2A) The Disciplinary Committee shall, for the purpose of carrying out its function under section 43(1), sit in divisions of itself (each division in this Act referred to as a ‘panel’) established under subsection (3) of that section.”,

and

- (b) in subsection (6), by the substitution of “(other than the Executive Committee or Investigating Committee)” for “(other than the Executive Committee, Investigating Committee or Disciplinary Committee)”.

**Amendment of section 27 of Principal Act****6.** Section 27 of the Principal Act is amended by the repeal of subsection (4).**Amendment of section 28 of Principal Act****7.** Section 28 of the Principal Act is amended—

- (a) in subsection (2)—

(i) by the deletion of paragraph (a), and

(ii) in paragraph (b), by the substitution of “8 members” for “7 members”,

and

- (b) by the repeal of subsection (3) and subsection (4).

**Amendment of section 29 of Principal Act****8.** Section 29 of the Principal Act is amended—

- (a) in paragraph (a) of subsection (3)—

(i) by the substitution of “in respect of each person who is registered or is entitled to be registered” for “in respect of each person entitled to be registered”,

(ii) by the substitution of the following subparagraph for subparagraph (iv):

“(iv) whether the registration is subject to conditions under section 31 (amended by *section 10* of the *Act of 2015*), section 33 (amended by *section 14* of the *Act of 2015*) or section 44 (amended by *section 25* of the *Act of 2015*);”,

(iii) by the substitution of the following subparagraph for subparagraph (vii):

“(vii) name and address of employer if known to the Council;”,

(iv) by the substitution of the following subparagraph for subparagraph (x):

“(x) the findings of any disciplinary proceedings under Part 5, including any measures confirmed by a panel under section 44(1A), and the period for which such information shall remain on the register;”,

and

(v) by the insertion of the following subparagraph after subparagraph (x):

“(xi) the information disclosed by the most recent vetting disclosure in the possession of the Council in respect of the person;”,

(b) in subsection (4), by the substitution of “Save as otherwise provided in any enactment or rule of law prohibiting the disclosure of information, the Council shall” for “The Council shall”, and

(c) in subsection (6), by the substitution of “Save as otherwise provided in any enactment or rule of law prohibiting the disclosure of information and subject to the payment of such fee” for “The register shall be kept at the offices of the Council and subject to the payment of such fee”.

#### **Amendment of section 30 of Principal Act**

9. The Principal Act is amended by the substitution of the following section for section 30 (amended by section 8 of the Education (Amendment) Act 2012)—

##### **“Employment of teacher in recognised school**

30. Subject to subsection (8) of section 24 (inserted by section 6 of the Education (Amendment) Act 2012) of the Act of 1998, subsection (22) of section 33 (amended by *section 14* of the *Act of 2015*), subsection (6A) (inserted by *section 25(g)* of the *Act of 2015*) of section 44 and subsection (3A) (inserted by *section 29* of the *Act of 2015*) of section 47, a person who is employed as a teacher in a recognised school but—

(a) is not a registered teacher, or

(b) stands removed or suspended from the register under Part 5,

shall not be remunerated in respect of his or her employment out of moneys provided by the Oireachtas.”.

#### **Amendment of section 31 of Principal Act**

10. Section 31 of the Principal Act is amended—

(a) in subsection (5)—

(i) by the substitution of the following paragraph for paragraph (b):

“(b) the documentary and other evidence which the Council may request for the purposes of determining an application for registration, including the documentary and other evidence to enable the

Council to satisfy itself that a person is a fit and proper person to be admitted to the register;”,

and

(ii) by the substitution of the following paragraph for paragraph (c):

“(c) any other requirements to be met for the purposes of registration which may include requirements relating to—

- (i) qualifications,
- (ii) teaching experience, and
- (iii) medical fitness;”,

(b) by the insertion of the following subsections after subsection (5):

“(5A) The Council may seek a vetting disclosure in respect of a person applying for registration under this section.

(5B) The Council shall not register a person who makes an application under subsection (1) unless the Council—

- (a) receives a vetting disclosure in respect of the person, and
- (b) is satisfied that the person is a fit and proper person to be admitted to the register, having considered—
  - (i) subject to subsection (5C), the information contained in the vetting disclosure in respect of that person,
  - (ii) any submissions made by the person under subsection (5D), and
  - (iii) any documentary and other evidence submitted by that person to the Council for that purpose in accordance with requirements (if any) prescribed under subsection (5)(b).

(5C) Where a vetting disclosure received by the Council under this section in respect of a person contains specified information and the specified information relates to conduct of the person which occurred prior to the coming into operation of *section 10* of the *Act of 2015*, the Council may not consider that information for the purposes of subsection (5B) (b) unless the conduct concerned would have constituted a criminal offence at the time the conduct occurred.

(5D) Where a vetting disclosure received by the Council under this section in respect of a person contains information referred to in section 14(4) (a) of the Act of 2012 and the Council considers that that information disclosed is of relevance to its consideration as to whether the person making an application under subsection (1) is a fit and proper person to be registered as a teacher under this section, the Council shall notify that person accordingly and invite that person to make submissions in writing to the Council in relation to the disclosure within such time period as is specified in the notice.

(5E) The Council may seek evidence from the person making an application under subsection (1), or any other relevant person, to verify any of the information submitted by the person making that application, for the purposes of registration in accordance with this section.”,

and

(c) in subsection (6)—

(i) in paragraph (a)—

(I) by the insertion of the following subparagraph after subparagraph (i):

“(ia) he or she has failed to provide a declaration of consent or any other information required in accordance with section 31A (inserted by *section 12* of the *Act of 2015*),”,

and

(II) by the substitution of the following subparagraph for subparagraph (ii):

“(ii) at the time the Council makes its decision, the person—

(I) stands removed from the register under Part 5 and is not eligible to apply to be restored to the register under this section, or

(II) stands suspended from the register under Part 5 and the period of suspension has not expired, or”,

(ii) by the insertion of the following paragraph after paragraph (a):

“(aa) shall refuse to register a person where it is not satisfied that he or she is a fit and proper person to be admitted to the register,”,

and

(iii) in paragraph (b), by the substitution of “subject to such conditions (if any) as the Council considers appropriate” for “subject to conditions”.

### **Pending applications for registration under section 31 of Principal Act**

**11.** Where, before the coming into operation of *section 10*, an application for registration has been made under section 31(1) of the Principal Act, but on that coming into operation no decision has been made by the Teaching Council in respect of the application, that application shall continue under section 31 of the Principal Act as amended by *section 10* and the provisions of section 31 as amended by *section 10* shall apply accordingly.

### **Information necessary to obtain vetting disclosure**

**12.** The Principal Act is amended by the insertion of the following section after section 31:

#### **“Information necessary to obtain vetting disclosure**

**31A.** Where a person applies for registration under section 31 he or she shall provide the Council with a declaration of consent (within the meaning of

the Act of 2012) and any other information which is required by the Council to enable it to obtain a vetting disclosure in respect of the person.”.

**Amendment of section 32 of Principal Act**

13. Section 32 of the Principal Act is amended by the insertion of the following subsection after subsection (2):

“(2A) Where a person fails to comply with any condition imposed under section 31(8)(b)(i), he or she shall be removed from the register.”.

**Amendment of section 33 of Principal Act**

14. The Principal Act is amended by the substitution of the following section for section 33 (amended by section 9 of the Education (Amendment) Act 2012):

**“Renewal of registration**

33. (1) Subject to subsection (13), registration shall be valid for 12 months from the date of registration.
- (2) The Council may make regulations for the purposes of renewal of registration of registered teachers which shall provide for, but not necessarily be limited to, all or any of the following:
- (a) the form and manner in which an application for renewal shall be made;
  - (b) the documentary and other evidence which the Council may request for the purposes of determining an application for renewal of registration;
  - (c) the documentary and other evidence which the Council may request to enable the Council to satisfy itself, for the purposes of subsection (8), that a registered teacher is a fit and proper person to have his or her registration renewed;
  - (d) any other requirements to be met for renewal of registration which may include requirements relating to—
    - (i) satisfactory completion of programmes of continuing education and training accredited under section 39,
    - (ii) teaching experience, or
    - (iii) medical fitness.
- (3) A registered teacher may apply for renewal of his or her registration under this section for a further period of 12 months.
- (4) (a) Subject to paragraph (b), an application for renewal of registration shall be made before the expiration of the period of validity of registration and the application shall be accompanied by the

renewal fee.

- (b) Where, in accordance with subsection (5), the Council notifies a registered teacher that it intends to seek a vetting disclosure in respect of him or her for the purposes of renewing his or her registration, the teacher shall comply with that notice within the period referred to in paragraph (d) of that subsection.
- (5) (a) The Council may seek a vetting disclosure in respect of a registered teacher for the purposes of renewing the registration of the teacher in accordance with this section.
- (b) The Council shall notify a registered teacher in writing where the Council intends to seek a vetting disclosure in respect of the registered teacher under paragraph (a) and the notice shall—
    - (i) request the registered teacher to provide the Council with a declaration of consent (within the meaning of the Act of 2012) and any other information specified in the notice which is required by the Council to enable it to obtain a vetting disclosure in respect of that teacher,
    - (ii) specify the time period within which the registered teacher shall comply with a request under subparagraph (i) and the form and manner in which the information requested under that subparagraph shall be furnished,
    - (iii) advise the registered teacher that the Council intends to consider the vetting disclosure for the purpose of determining if he or she is a fit and proper person, in accordance with subsection (8), to have his or her registration renewed upon his or her next renewal under this section,
    - (iv) advise the registered teacher that the Council may refuse to renew the registration of that teacher under this section if he or she fails to comply with the request under subparagraph (i) within the time period specified under subparagraph (ii) and the Council has not been in a position to make a determination that he or she is a fit and proper person to have his or her registration renewed, and
    - (v) advise the registered teacher that the Council may, having regard to the information contained in the vetting disclosure, where it is satisfied that it is in the public interest to do so, apply to the High Court under section 47 for an order that during the period specified in the order his or her registration shall be suspended.
  - (c) A notice issued under paragraph (b) shall be issued—
    - (i) not earlier than 10 months prior to the date of expiration of the period of validity of registration of that teacher, or

- (ii) within such lesser period as the Minister may direct in respect of all notifications made to registered teachers under that paragraph.
- (d) A notice from the Council under paragraph (b) shall specify the period within which the notice shall be complied with, which period shall be the same in respect of all registered teachers to whom a notice is issued in accordance with this subsection.
- (6) In considering whether to seek a vetting disclosure under subsection (5) in respect of a registered teacher, the Council shall have regard to—
  - (a) whether a GCVU disclosure has previously been received by the Council in respect of that teacher,
  - (b) where a GCVU disclosure has previously been received by the Council in respect of that teacher, the period of time which has elapsed since the last GCVU disclosure was received by the Council in respect of that teacher,
  - (c) whether a vetting disclosure has previously been received by the Council in respect of that teacher,
  - (d) where a vetting disclosure has previously been received by the Council in respect of that teacher, the period of time which has elapsed since the last vetting disclosure was received by the Council in respect of that teacher, and
  - (e) where the Council has previously considered a vetting disclosure in respect of a teacher for the purposes of registration or renewal of registration under this Act, any periods prescribed under section 20 of the Act of 2012.
- (7) Where the Council seeks a vetting disclosure under subsection (5) in respect of a registered teacher and the disclosure contains specified information which relates to conduct of the teacher which occurred prior to the coming into operation of *section 14* of the *Act of 2015*, the Council may not consider that information for the purposes of subsection (8) unless the conduct concerned would have constituted a criminal offence at the time the conduct occurred.
- (8) Where the Council receives a vetting disclosure under this section in respect of a registered teacher the Council shall, for the purpose of satisfying itself that the registered teacher is a fit and proper person to have his or her registration renewed, consider—
  - (a) subject to subsection (7), the information contained in the disclosure,
  - (b) any submissions made by the registered teacher under subsection (9), and



- (c) any documentary and other evidence submitted by that registered teacher to the Council in accordance with requirements (if any) prescribed under subsection (2)(c).
- (9) Subject to subsection (14)(b), where a vetting disclosure received by the Council under this section in respect of a registered teacher contains information referred to in section 14(4)(a) of the Act of 2012 and the Council considers the information in that disclosure is of relevance to its consideration as to whether the teacher is a fit and proper person to have his or her registration renewed under this section, the Council shall notify that teacher accordingly and invite him or her to make submissions in writing to it in relation to that disclosure within such period as is specified in the notice.
- (10) The Council may seek evidence from the registered teacher, or any other relevant person, to verify any of the information submitted by the registered teacher for the purposes of renewal of registration in accordance with this section.
- (11) The term of a renewal of registration shall take effect from the expiration of the previous registration.
- (12) On receipt of an application for renewal of registration and the prescribed fee, the Council shall, as soon as practicable, send to the registered teacher a receipt stating that the fee has been received.
- (13) Where, in exceptional circumstances, notwithstanding that a registered teacher has complied with a notice under subsection (5)(b) within the time specified in the notice, the Council has—
- (a) not received a vetting disclosure in respect of that teacher before the expiration of the period of validity of that teacher's registration, or
- (b) received a vetting disclosure to which subsection (9) applies but does not have sufficient time before the expiration of the period of validity of that teacher's registration to seek submissions referred to in that subsection,
- that teacher's name shall not be removed from the register until the Council makes a decision under subsection (16) in accordance with subsection (14).
- (14) (a) Where a vetting disclosure referred to in paragraph (a) of subsection (13) is received and the disclosure does not contain information referred to in subsection (9), the Council shall make a decision under subsection (16) within 21 days of receipt of that disclosure.
- (b) Where—
- (i) a vetting disclosure referred to in paragraph (a) of subsection

(13) is received and the disclosure contains information referred to in subsection (9), or

(ii) paragraph (b) of subsection (13) applies,

the Council shall within 21 days of receipt of that disclosure, notify the registered teacher in accordance with subsection (9) and the period specified in the notice referred to in that subsection shall be 21 days and the Council shall make a decision under subsection (16) within 21 days after the expiration of the period for the making of submissions by that teacher.

(15) (a) Where a registered teacher fails to comply with a request under subparagraph (i) of a notice under subsection (5)(b) within the time specified in that notice, the Council shall notify the teacher in writing that the Council may refuse to renew that teacher's registration in accordance with subsection (16)(a)(iii) and that teacher may, within such time period as may be specified in the notice, make submissions in writing to the Council in relation to that failure.

(b) The Council shall consider submissions (if any) made by a teacher under paragraph (a) and where the Council is satisfied that there are reasonable grounds for the teacher's failure to comply with that notice, the Council shall notify the teacher in writing that the Council may refuse to register the teacher in accordance with section 16(a)(iii) and that the teacher may make submissions and include with such submissions any information which he or she considers relevant to the Council's determination under subsection (16)(a)(iii).

(16) The Council—

(a) may refuse to renew the registration of a person where—

(i) he or she does not satisfy the requirements for renewal of registration prescribed under subsection (2),

(ii) at the time the Council makes its decision, the person—

(I) stands removed from the register under Part 5 and is not eligible to apply to be restored to the register under section 31, or

(II) stands suspended from the register under Part 5 and the period of suspension has not expired,

or

(iii) the registered teacher fails to comply with the notice under subsection (5)(b) within the time specified in the notice, and having considered the submissions and information (if any) submitted under subsection (15)(b), the Council has not been in

a position to determine if that registered teacher is a fit and proper person to have his or her registration renewed,

(b) shall refuse to renew the registration of the registered teacher where—

(i) the Council receives a vetting disclosure in respect of a registered teacher under this section and is not satisfied, in accordance with subsection (8), that the registered teacher is a fit and proper person to have his or her registration renewed, or

(ii) the Council is not satisfied that the teacher has provided reasonable grounds for his or her failure to comply with a request under subparagraph (i) of a notice under subsection (5) (b),

or

(c) may renew the registration of a registered teacher subject to such conditions (if any) as the Council considers appropriate and such conditions shall be complied with within such period as may be specified by the Council.

(17) A receipt issued by the Council under subsection (12), and a certificate issued by it under subsection (24), shall, without proof of the signature of the person purporting to sign the receipt or certificate or that such person was the proper person so to sign, be evidence in any legal proceedings that, as the case may be, the payment was made or the registration was renewed for the period specified in the certificate, unless the contrary is shown.

(18) Where the Council makes a decision under subsection (16)—

(a) to refuse to renew the registration of a person, or

(b) to renew the registration of a person subject to conditions,

the Council shall, within 21 days of making the decision, inform the person, by notice in writing, of the decision, the reason for the decision and the rights of the person under subsection (19).

(19) A person may, within 21 days of the date of service of a notice under subsection (18), apply to the High Court for annulment of the decision concerned and the Court, on hearing the application, may—

(a) confirm the decision of the Council,

(b) annul the decision of the Council and as the Court considers appropriate—

(i) direct the Council to renew the registration of the person with or without conditions, as the case may be, or

(ii) direct the Council to make a further decision,

- (c) vary the decision of the Council, or
  - (d) give such other directions to the Council as the Court considers appropriate,  
and the Court may make such order as to costs as it considers appropriate.
- (20) Subject to any order that may be made by the High Court under section 47 suspending the registration of a teacher, where a teacher brings an application under subsection (19) within the time period specified in that subsection, that teacher shall remain on the register until the High Court makes a decision under that section.
- (21) By leave of the High Court or the Court of Appeal, an appeal by the Council or the teacher concerned from a decision of the High Court under subsection (19) shall lie to the Court of Appeal on a point of law.
- (22) Where—
- (a) the decision of the High Court under subsection (19) results in a registered teacher being removed from the register,
  - (b) the High Court or the Court of Appeal grants leave to a teacher under subsection (21) to appeal a decision of the High Court to the Court of Appeal on a point of law,
  - (c) at the date of the grant of leave the teacher is employed as a teacher in a recognised school, and
  - (d) that teacher is remunerated in respect of his or her employment out of moneys provided by the Oireachtas,
- the High Court or the Court of Appeal, as the case may be, shall at the same time as it grants such leave to appeal direct whether that teacher shall continue to be remunerated pursuant to his or her contract of employment out of moneys provided by the Oireachtas pending the determination of that appeal.
- (23) A direction of the High Court or the Court of Appeal under subsection (22) that a teacher shall continue to be remunerated shall be subject to such terms and be for such period as the High Court or the Court of Appeal considers appropriate.
- (24) When renewal of registration has been completed the Council shall issue to the registered teacher a certificate of registration in such form and manner and containing such information as the Council may prescribe.”.

**Renewal of registration subject to conditions**

15. The Principal Act is amended by the insertion of the following section after section 33:

**“Renewal of registration subject to conditions**

- 33A.(1)(a)** Where the renewal of registration of a registered teacher is subject to conditions to be complied with within a specified period under section 33(16)(c), the registered teacher may apply in writing to the Council, within the specified period, for an extension of that period.
- (b) Any extension of the specified period shall be at the discretion of the Council.
- (2) Where a registered teacher fails to comply with the conditions referred to in subsection (1) within the specified period or any extension of the specified period under that subsection, he or she shall be removed from the register.
- (3) Where a registered teacher fails to comply with any condition imposed under section 33(19)(b), he or she shall be removed from the register.”.

**Sharing of information in a vetting disclosure obtained under section 33**

- 16.** The Principal Act is amended by the insertion of the following section after section 33A (inserted by *section 15*):

**“Sharing of information in a vetting disclosure obtained under section 33**

- 33B.** (1) Subject to this section, the Council may provide the employer of a registered teacher with information contained in a vetting disclosure received by the Council for the purposes of the renewal of teacher’s registration under section 33 where—
- (a) the Council considers that the information in that disclosure is of such a nature as to give rise to a *bona fide* concern that the teacher may—
- (i) harm any child or vulnerable person,
  - (ii) cause any child or vulnerable person to be harmed,
  - (iii) put any child or vulnerable person at risk of harm,
  - (iv) attempt to harm any child or vulnerable person, or
  - (v) incite another person to harm any child or vulnerable person,
- and
- (b) the identity of the employer of that teacher is known to the Council.
- (2) Where the Council proposes to provide the employer of a registered teacher with information contained in a vetting disclosure under subsection (1), it shall notify the teacher in writing accordingly and invite him or her to make submissions in writing to it in relation to that proposal within such period as is specified in the notice.
- (3) The Council shall consider submissions (if any) made by a registered

teacher under subsection (2) before making a decision under subsection (1) to provide the employer of that teacher with the information contained in a vetting disclosure referred to in subsection (1).”.

### Conditions on registration applicable on renewal of registration

#### 17. (1) Where—

- (a) prior to the coming into operation of *section 14* a condition was imposed under paragraph (b) of subsection (6) of section 31 of the Principal Act in respect of a teacher and the period for compliance with the condition specified under that paragraph, or if that period was extended under section 32 of that Act, that period, exceeded the period for which the person was registered under section 31 of that Act, and
- (b) on the coming into operation of *section 14* the registration of that teacher stands renewed under section 33 of that Act,

then on that coming into operation, that teacher’s registration stands renewed subject to the condition for such portion of the period for compliance as has not expired.

- (2) Where, by reason of the operation of *subsection (1)*, a teacher’s registration stands renewed subject to a condition, the condition shall be taken to be a condition imposed under subsection (16) of section 33 (amended by *section 14* of the *Teaching Council (Amendment) Act 2015*) of the Principal Act.

### Amendment of section 34 of Principal Act

#### 18. Section 34 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “Subject to subsection (1A), where a registered teacher” for “Where a registered teacher”,
- (b) by the insertion of the following subsection after subsection (1):

“(1A) Where a registered teacher who fails to apply for renewal of registration in accordance with section 33 is one to whom subsection (5) of that section applies, subsection (1) shall only apply where the registered teacher has complied with subsection (5) of section 33.”,

and

- (c) in subsection (2), by the substitution of the following paragraph for paragraph (b):

“(b) Where a complaint has been made in relation to a registered teacher under section 42 (amended by *section 20* of the *Act of 2015*) the Council shall not remove that registered teacher from the register under this section until that complaint has either been refused to be referred or refused to be considered, as the case may be, under subsection (3)(b), (5)(b), (8)(aa) or (9)(b), of section 42 (as so

amended) or any inquiry in relation to that complaint has been completed in accordance with Part 5.”.

#### **Amendment of section 35 of Principal Act**

**19.** Section 35 of the Principal Act is amended by the substitution of the following subsection for subsection (2):

“(2) Where a registered teacher applies to be removed from the register under subsection (1) and a complaint has been made under section 42 (amended by *section 20* of the *Act of 2015*) in relation to the teacher, the Council shall not consider the application under subsection (1) until that complaint has either been refused to be referred or refused to be considered, as the case may be, under subsection (3)(b), (5)(b), (8) (aa) or (9)(b), of section 42 (as so amended) or any inquiry in relation to that complaint has been completed in accordance with Part 5.”.

#### **Amendment of section 42 of Principal Act**

**20.** Section 42 of the Principal Act is amended—

(a) by the substitution of the following subsections for subsection (1):

“(1) A person (including the Council) may make a complaint to the Investigating Committee in relation to a registered teacher, and the Committee may consider the complaint, where that complaint concerns any of the following matters in relation to the registered teacher:

- (a) that he or she has failed to comply with, or has contravened, any provision of this Act, the Act of 1998, the Education (Welfare) Act 2000, the Education for Persons with Special Educational Needs Act 2004, the Education and Training Boards Act 2013 or any regulations, rules or orders made under those Acts;
- (b) that his or her behaviour constitutes professional misconduct;
- (c) poor professional performance;
- (d) that he or she has engaged in conduct contrary to a code of professional conduct established by the Council under section 7(2) (b);
- (e) that his or her registration is erroneous due to a false or fraudulent declaration or misrepresentation;
- (f) that he or she is medically unfit to teach;
- (g) that he or she has been convicted in the State of an offence triable on indictment or convicted outside the State of an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence triable on indictment;

- (h) that he or she has failed to comply with an undertaking or to take any action specified in a consent given in response to a request under section 43(6).
- (1A) A person who makes a complaint under subsection (1) shall specify the conduct of the registered teacher giving rise to the person's complaint.
- (1B) The Investigating Committee may consider a complaint relating to the matter specified at paragraph (b) of subsection (1) notwithstanding that the conduct to which the complaint relates occurred prior to the coming into operation of this Part where that conduct—
  - (a) would have constituted a criminal offence at the time that conduct occurred, and
  - (b) is of such a nature as to reasonably give rise to a *bona fide* concern that the teacher may—
    - (i) harm any child or vulnerable person,
    - (ii) cause any child or vulnerable person to be harmed,
    - (iii) put any child or vulnerable person at risk of harm,
    - (iv) attempt to harm any child or vulnerable person, or
    - (v) incite another person to harm any child or vulnerable person.
- (1C) The Investigating Committee may consider a complaint concerned with any of the matters specified in paragraphs (a), (e) or (g) of subsection (1) notwithstanding that the matter to which the complaint relates occurred prior to the coming into operation of this Part.
- (1D) The Council may make a complaint to the Investigating Committee in respect of a registered teacher in relation to information, other than in relation to specified information in respect of the registered teacher which relates to conduct of that registered teacher which occurred prior to the coming into operation of this Part where the conduct would not have constituted a criminal offence at the time the conduct occurred, contained in a vetting disclosure received by the Council on behalf of another relevant organisation the Council represents for the purpose of vetting procedures under the Act of 2012 on the grounds that that information is of such a nature as to reasonably give rise to a *bona fide* concern that the teacher may—
  - (a) harm any child or vulnerable person,
  - (b) cause any child or vulnerable person to be harmed,
  - (c) put any child or vulnerable person at risk of harm,
  - (d) attempt to harm any child or vulnerable person, or
  - (e) incite another person to harm any child or vulnerable person.



- (1E) The Council may make a complaint to the Investigating Committee under subsection (1)(g) in respect of a registered teacher on the basis of information contained in a vetting disclosure received by the Council on behalf of another relevant organisation the Council represents for the purpose of vetting procedures under the Act of 2012.
- (1F) A complaint made under subsection (1) or subsection (1D) shall, subject to this section, be considered by the Investigating Committee.
- (1G) A complaint made under subsection (1) may be made in so far as the complaint relates to professional misconduct or poor professional performance notwithstanding that the matter to which the complaint relates occurred outside the State.”,
- (b) by the substitution of the following subsection for subsection (2):
- “(2) A complaint made under subsection (1) or subsection (1D) shall be—
- (a) in writing,
  - (b) signed by the complainant, and
  - (c) accompanied by such documents and information as may be relevant to the complaint, including—
    - (i) in the case of a complaint made under subsection (1D), a copy of the vetting disclosure referred to in that subsection and confirmation of the information contained in that disclosure which grounds the complaint under that subsection, and
    - (ii) in the case of a complaint made under subsection (1)(g) to which subsection (1E) applies, a copy of the vetting disclosure referred to in subsection (1E) and confirmation of the information contained in the disclosure which grounds the complaint under subsection (1)(g).”,
- (c) in subsection (3)—
- (i) to substitute the following for paragraph (a):

“(a) Subject to paragraph (b), the Director shall refer all complaints made under subsection (1) or subsection (1D) to the Investigating Committee.”,
  - (ii) in paragraph (b)—
    - (I) by the substitution of “may refuse to refer a complaint” for “shall refuse an application”, and
    - (II) in subparagraphs (i) and (ii), by the substitution of “the complaint” for “the application” in each place it occurs,
- and
- (iii) by the insertion of the following paragraph after paragraph (b):

“(c) For the purposes of considering whether to refuse to refer a complaint under paragraph (b), the Director may—

- (i) in the case of a complaint made under subsection (1D), consider the information contained in the vetting disclosure in so far as the information grounds the complaint under, and in accordance with, that subsection, and
- (ii) in the case of a complaint made under subsection (1)(g) to which subsection (1E) applies, consider the information contained in the vetting disclosure in so far as the information grounds the complaint under subsection (1)(g).”

(d) by the insertion of the following subsections after subsection (3):

“(3A) Where—

(a) a complaint under subsection (1) is made in relation to a registered teacher—

- (i) employed by a recognised school, an education and training board or a centre for education,
- (ii) engaged in the delivery of home tuition, or
- (iii) employed in teaching children or vulnerable persons,

(b) the Investigating Committee considers that the complaint is of such a nature as to reasonably give rise to a *bona fide* concern that the teacher may—

- (i) harm any child or vulnerable person,
- (ii) cause any child or vulnerable person to be harmed,
- (iii) put any child or vulnerable person at risk of harm,
- (iv) attempt to harm any child or vulnerable person, or
- (v) incite another person to harm any child or vulnerable person,

and

(c) the identity of the employer of that teacher who is the subject of that complaint is known to the Council,

the Investigating Committee shall, as soon as reasonably practicable, inform that employer of that teacher of the complaint and the nature of that concern.

(3B) Where—

(a) a complaint under subsection (1D) is made in relation to a registered teacher—

- (i) employed by a recognised school, an education and training board or a centre for education,

- (ii) engaged in the delivery of home tuition, or
  - (iii) employed in teaching vulnerable persons or children,
  - and
  - (b) the identity of the employer of that teacher the subject of that complaint is known to the Council,
- the Investigating Committee shall, as soon as reasonably practicable, inform that employer of that teacher of the complaint and the nature of that concern.”,
- (e) in subsection (4)—
    - (i) by the substitution of “refuses to refer a complaint” for “refuses an application”, and
    - (ii) by the substitution of “the complainant” for “the applicant” in each place it occurs,
  - (f) by the insertion of the following subsection after subsection (4):
    - “(4A) Where an appeal is made by a complainant under subsection (4) within the time specified in that subsection, the Investigating Committee shall review the decision of the Director which is the subject of the appeal and either—
      - (a) uphold that decision, or
      - (b) quash that decision and proceed to hold an inquiry in respect of that complaint under subsection (5)(a).”,
  - (g) in subsection (5)—
    - (i) by the substitution of the following paragraph for paragraph (a):
      - “(a) Subject to paragraph (b), the Investigating Committee shall hold an inquiry into the fitness to teach of a registered teacher in respect of each complaint—
        - (i) referred to it by the Director under subsection (3)(a), or
        - (ii) to which subsection (4A)(b) applies.”,
    - and
    - (ii) in paragraph (b)—
      - (I) by the substitution of “a complaint” for “an application or appeal”,
      - (II) by the substitution of “the complaint” for “the application or appeal” in each place it occurs, and
      - (III) by the deletion of subparagraph (iii),
  - (h) by the substitution of the following subsection for subsection (6):

“(6) Where the Investigating Committee refuses under paragraph (b) of subsection (5) to consider a complaint referred to in paragraph (a) of that subsection, the Investigating Committee shall, within 21 days of such refusal, by notice in writing inform the complainant of its decision to refuse and the reasons for that decision.”,

(i) by the substitution of the following subsection for subsection (7):

“(7) (a) Where the Investigating Committee decides to hold an inquiry, the Investigating Committee shall, within 21 days of making the decision, provide the registered teacher with—

(i) a copy of the complaint and any documents and information accompanying the complaint including, in the case of a complaint made under subsection (1D) or a complaint made under subsection (1)(g) to which subsection (1E) applies, a copy of the vetting disclosure referred to in subsection (1D) or (1E), as the case may be, and confirmation of the information contained in that disclosure which grounds the complaint under subsection (1D) or subsection (1)(g), as the case may be, and

(ii) a notice stating that the registered teacher may make submissions in writing to the Investigating Committee within such time period as is specified in the notice, including submissions in relation to a vetting disclosure (if any) provided in accordance with subparagraph (i).

(b) The Investigating Committee shall consider submissions (if any) made by the registered teacher concerned pursuant to paragraph (a) (ii).

(c) The Investigating Committee may consider—

(i) in the case of a complaint made under subsection (1D), the information contained in the vetting disclosure in so far as that information grounds the complaint under, and in accordance with, that subsection, and

(ii) in the case of a complaint made under subsection (1)(g) to which subsection (1E) applies, the information contained in the vetting disclosure in so far as the information grounds the complaint under subsection (1)(g).”,

(j) by the insertion of the following subsections after subsection (7):

“(7A) (a) Where the Investigating Committee decides to hold an inquiry in respect of a registered teacher and the Committee considers that the complaint under subsection (1) is of such a nature as to reasonably give rise to a *bona fide* concern that that teacher may—

(i) harm any child or vulnerable person,

(ii) cause any child or vulnerable person to be harmed,

- (iii) put any child or vulnerable person at risk of harm,
  - (iv) attempt to harm any child or vulnerable person, or
  - (v) incite another person to harm any child or vulnerable person,
- the Committee shall request the Council to apply to the National Vetting Bureau for a vetting disclosure in respect of that teacher.
- (b) Where the Investigating Committee receives a vetting disclosure under paragraph (a) it shall provide the registered teacher concerned with a copy of the disclosure and invite the teacher to make submissions in writing to the Committee in relation to the disclosure within such time period as is specified in the notice.
  - (c) The Investigating Committee shall consider submissions (if any) made by the registered teacher concerned under paragraph (b).
- (7B) Subject to subsection (7C), the Investigating Committee may consider the information contained in a vetting disclosure obtained under subsection (7A) in so far as the information relates to the conduct the subject of the complaint, for the purposes of its inquiry.
- (7C) Where a vetting disclosure obtained by the Council under subsection (7A) in respect of a teacher contains specified information and that specified information relates to conduct of the teacher which occurred prior to the coming into operation of *section 20* of the *Act of 2015*, the Investigating Committee may not consider that information for the purposes of subsection (7B) unless the conduct concerned would have constituted a criminal offence at the time the conduct occurred.”
- (k) in subsection (8), by the substitution of the following paragraph for paragraph (a):
- “(a) The Investigating Committee may, by notice in writing to the complainant, do one or more of the following:
    - (i) require the complainant to verify, by affidavit or otherwise, within such reasonable period as is specified in the notice, anything contained in the complaint under this section;
    - (ii) request the complainant to supply to the Committee, within such reasonable period as is specified in the notice, such additional information as the Committee may reasonably require relating to the matter which is the subject of the complaint;
    - (iii) require that the information requested under subparagraph (ii) be supplied by the complainant by means of a statutory declaration;
    - (iv) require the complainant to supply to the Committee, within such reasonable period as is specified in the notice, such documents as the Committee may reasonably require relating to the

complaint as are specified in the notice.”,

(l) by the insertion of the following paragraphs after paragraph (a):

“(aa) The Investigating Committee may refuse to consider or further consider a complaint under this section if the complainant, without reasonable excuse, does not comply with a notice under paragraph (a) within the period of time specified in the notice.

(ab) The Investigating Committee may, by notice in writing to the registered teacher who is the subject of a complaint under this section, require the teacher to furnish to the Committee within such reasonable period of time as is specified in the notice, such information or documents relating to the complaint as is specified in the notice.

(ac) A registered teacher shall comply with a notice given to him or her under paragraph (ab).

(ad) The Investigating Committee may, for the purposes of considering a complaint under this section—

(i) require—

(I) any school where the teacher is or was employed as a teacher, or

(II) any other person the Committee has reason to believe holds information that is material to the complaint under consideration,

to provide such information or documents that may reasonably be required by the Committee within such reasonable period of time as is specified in writing by that Committee to the school or other person concerned, and

(ii) obtain such expert advice or assistance as it considers appropriate.

(ae) A school or other person referred to in paragraph (ad)(i) shall comply with the requirement within the period of time specified in writing by the Committee.

(af) The Investigating Committee may, for the purposes of considering a complaint under this section, by notice in writing invite any school where the teacher is or was employed as a teacher to make submissions in writing to the Committee within 21 days of receipt of the notice by the school.”,

(m) by the substitution of the following subsection for subsection (9)—

“(9) Following its inquiry, the Investigating Committee shall—

(a) where it is of the opinion that there is a *prima facie* case to warrant

further action being taken in relation to a complaint, make a decision to refer the complaint, in whole or in part, to the Disciplinary Committee, or

- (b) where it is of the opinion that there is no *prima facie* case to warrant further action being taken in relation to a complaint, make a decision to refuse to refer the complaint to the Disciplinary Committee.”,
- (n) in subsection (10)—
  - (i) by the substitution of “The Investigating Committee shall, within 21 days of making a decision under subsection (9)” for “The Director shall, within 21 days of receiving the decision made under subsection (9)”, and
  - (ii) in paragraph (a), by the substitution of “the complainant” for “the applicant”, and
- (o) by the insertion of the following subsection after subsection (10):
  - “(11) In this section, ‘document’ includes—
    - (a) a book, record or other printed material,
    - (b) a photograph,
    - (c) any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in legible form, and
    - (d) any audio or video recording.”.

### **Amendment of section 43 of Principal Act**

21. The Principal Act is amended by the substitution of the following section for section 43:

#### **“Inquiry by Disciplinary Committee**

43. (1) The Disciplinary Committee shall hold an inquiry into the fitness to teach of a registered teacher in respect of a complaint referred to it by the Investigating Committee under section 42(9)(a).
- (2) As soon as is practicable after a complaint is referred to it under section 42(9)(a), the Disciplinary Committee shall cause a notice in writing to be given to—
- (a) the registered teacher the subject of the complaint of the following:
    - (i) the referral of the complaint to the Disciplinary Committee;
    - (ii) the nature of the matter that is to be the subject of the inquiry, including the particulars of any evidence in support of the complaint;
    - (iii) the opportunity for the registered teacher to request that the

inquiry be held by examination of documents in accordance with subsection (4);

- (iv) if a hearing is being held as part of an inquiry, the opportunity for the registered teacher, or the registered teacher's representative, to be present and to defend the registered teacher at the hearing;
- (v) if a hearing is being held as part of an inquiry, the opportunity for the registered teacher to request that some or all of the hearing be held otherwise than in public if the registered teacher can show reasonable and sufficient cause;

and

- (b) if a hearing is being held as part of an inquiry, any witnesses who may be required to give evidence at the hearing (including, where appropriate, the complainant) of the opportunity of the witness to request that some or all of the hearing be held otherwise than in public if the witness can show reasonable and sufficient cause.
- (3) For the purpose of an inquiry under this section, the chairperson of the Disciplinary Committee shall appoint, from among the members of the Disciplinary Committee, a panel consisting of not less than 3 and not more than 5 persons, of whom a majority shall be registered teachers and Schedule 3 shall apply.
  - (4) Subject to such rules as may be made under Schedule 3, a panel may, at the request of, or with the consent of, the registered teacher concerned hold an inquiry under this section by an examination of documents and written submissions from the complainant and the registered teacher, including any documents and written submissions considered by the Investigating Committee in relation to the complaint, in place of a hearing.
  - (5) For the purposes of an inquiry under this section by an examination of documents, the panel shall provide the registered teacher with a notice stating that the registered teacher may make submissions in relation to the inquiry in writing to the panel within such time as may be specified in the notice.
  - (6) A panel may, at any time after its appointment under subsection (3) and having considered the complaint the subject of the inquiry, request the registered teacher who is the subject of the complaint to do one or more of the following:
    - (a) if appropriate, undertake not to repeat the conduct the subject of the complaint;
    - (b) undertake to attend a specified professional development course, or such other course as the panel considers appropriate;



- (c) undertake to comply with such requirements as may be specified for the purposes of improving his or her competence and performance as a registered teacher;
  - (d) consent to seek the assistance of such services relating to health and welfare as may be specified;
  - (e) consent to being censured.
- (7) Where a registered teacher gives an undertaking or consent in relation to all matters which are the subject of a request from a panel under subsection (6), the inquiry into the complaint shall be considered to be completed.
- (8) Where a registered teacher refuses to give an undertaking or consent in relation to all matters which are the subject of a request from a panel under subsection (6), the panel shall continue with the inquiry as if the request had not been made.
- (9) Where a hearing is being held before a panel as part of an inquiry, the hearing shall be held in public unless—
- (a) following a notification under section 43(2), the registered teacher or a witness who will be required to give evidence at the inquiry or about whom personal matters may be disclosed at the inquiry requests the panel to hold all or part of the hearing otherwise than in public, and
  - (b) the panel is satisfied that it would be appropriate in the circumstances to hold the hearing or part of the hearing otherwise than in public.
- (10) The panel shall give notice in writing to the registered teacher the subject of a complaint referred to the Disciplinary Committee of the date, time and place of any hearing of the complaint in sufficient time for the registered teacher to prepare for the hearing.
- (11) At the hearing of a complaint before a panel—
- (a) the Director, or any other person with leave of the panel, shall present the evidence in support of the complaint,
  - (b) the testimony of witnesses attending the hearing shall be given on oath, and
  - (c) there shall be a full right to cross-examine witnesses and call evidence in defence and reply.
- (12) Any member of the panel may administer oaths for the purposes of an inquiry.
- (13) Subject to any rules in force under Schedule 3, and to the necessity of observing fair procedures, the panel may receive evidence given—

- (a) orally before the committee,
  - (b) by affidavit, or
  - (c) as otherwise allowed by those rules, including by means of a live video link, a video recording, a sound recording or any other mode of transmission.
- (14) A panel shall, for the purpose of an inquiry under this section, have the powers, rights and privileges vested in the High Court or a judge thereof in respect of—
- (a) the enforcement of the attendance of witnesses and their examination on oath or otherwise, and
  - (b) the compelling of the production of documents,
- and a summons signed by the chairperson of the panel or by such other member of the panel as may be authorised by the panel for that purpose may be substituted for and shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of documents.
- (15) For the purposes of an inquiry under this section, a panel may, in relation to a vetting disclosure, consider the information and submissions referred to in section 43A.
- (16) A witness before a panel shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.
- (17) Following the completion of an inquiry by a panel, the panel shall—
- (a) where it makes no finding against the registered teacher in respect of a complaint under any of paragraphs (a) to (h) of subsection (1) of section 42, dismiss the complaint,
  - (b) where an inquiry is completed under subsection (7) or where the panel makes a finding or findings against the registered teacher in respect of a complaint under any of paragraphs (a) to (h) of subsection (1) of section 42, make a report of the inquiry and shall specify in the report—
    - (i) the nature of the complaint,
    - (ii) the evidence before the panel,
  - (iii) where an inquiry is completed under subsection (7), the measures included in the undertaking or consent,
  - (iv) where it makes a finding or findings against the registered teacher in respect of a complaint under any of paragraphs (a) to (h) of subsection (1) of section 42, the panel's finding or findings,
  - (v) where any finding in respect of the registered teacher is in the

terms of section 42(1)(g), its consideration of whether that finding affects the fitness to teach of the registered teacher, and

- (vi) any other matter in relation to the registered teacher which the panel considers appropriate,
  - (c) where it is satisfied, in respect of a complaint made under subsection (1D) of section 42, having regard to the protection of children and vulnerable persons, that there is a risk that the teacher may harm any child or vulnerable person, cause any child or vulnerable person to be harmed, put any child or vulnerable person at risk of harm, attempt to harm any child or vulnerable person, or incite another person to harm any child or vulnerable person, make a report of the inquiry and shall specify in the report—
    - (i) the nature of the information disclosed in the vetting disclosure giving rise to the complaint under that subsection,
    - (ii) the evidence laid before the panel,
    - (iii) its assessment of the risk concerned, and
    - (iv) its conclusion in respect of that risk,or
  - (d) where it is not satisfied, in respect of a complaint made under subsection (1D) of section 42, having regard to the protection of children and vulnerable persons, that there is a risk that the teacher may harm any child or vulnerable person, cause any child or vulnerable person to be harmed, put any child or vulnerable person at risk of harm, attempt to harm any child or vulnerable person, or incite another person to harm any child or vulnerable person, dismiss the complaint.
- (18) Where the panel dismisses a complaint under subsection (17), the panel shall, as soon as practicable, by notice in writing, inform—
- (a) the complainant,
  - (b) the registered teacher concerned and such other persons as the teacher may request, and
  - (c) where the teacher is employed as a teacher, his or her employer,
- and shall, at the request of the registered teacher concerned, publish a notice to that effect in such form and manner as may be determined by the Council.
- (19) In this section, ‘document’ includes—
- (a) a book, record or other printed material,
  - (b) a photograph,

- (c) any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in legible form, and
- (d) any audio or video recording.”.

### **Use of information in vetting disclosures in inquiry under section 43**

22. The Principal Act is amended by the insertion of the following section after section 43:

#### **“Use of information in vetting disclosures in inquiry under section 43**

**43A.** (1) For the purposes of an inquiry under section 43, a panel may consider—

- (a) the information (in so far as that information relates to the conduct which is the subject of the inquiry) contained in a vetting disclosure obtained by the Investigating Committee under subsection (7A) of section 42 subject to subsection (7C) of that section in like manner as subsection (7C) applies to the Investigating Committee, and
  - (b) submissions (if any) made by the registered teacher concerned under subsection (7A)(b) of section 42 to the Investigating Committee.
- (2) Where the Investigating Committee did not seek a vetting disclosure in respect of a registered teacher under section 42(7A) in relation to a complaint and a panel considers that the complaint referred to the Disciplinary Committee by the Investigating Committee under section 42(9)(a) is of such a nature as to reasonably give rise to a *bona fide* concern that that teacher may—
- (a) harm any child or vulnerable person,
  - (b) cause any child or vulnerable person to be harmed,
  - (c) put any child or vulnerable person at risk of harm,
  - (d) attempt to harm any child or vulnerable person, or
  - (e) incite another person to harm any child or vulnerable person,
- the panel may request the Council to apply to the National Vetting Bureau for a vetting disclosure in respect of that registered teacher.
- (3) Where a panel receives a vetting disclosure under subsection (2) in respect of a registered teacher, it shall provide the registered teacher concerned with a copy of the disclosure and invite that teacher to make submissions in writing to the panel in relation to the disclosure within such time period as is specified in the notice.
- (4) A panel shall consider submissions (if any) made by the registered teacher concerned under subsection (3).

- (5) Subject to subsection (6), a panel may, for the purpose of its inquiry, consider the information contained in a vetting disclosure obtained under subsection (2) in so far as the information relates to the conduct which is the subject of the complaint.
- (6) Where a vetting disclosure obtained by the Council under subsection (2) in respect of a registered teacher contains specified information and that specified information relates to conduct of the teacher which occurred prior to the coming into operation of *section 20* of the *Act of 2015*, the panel may not consider that information for the purposes of subsection (5) unless the conduct concerned would have constituted a criminal offence at the time the conduct occurred.
- (7) For the purposes of an inquiry under section 43 in relation to a complaint made under subsection (1D) of section 42, a panel may consider—
  - (a) the information contained in a vetting disclosure referred to in that subsection in so far as the information grounds the complaint under, and in accordance with, that subsection, and
  - (b) submissions (if any) made by the registered teacher concerned under subsection (7)(a)(ii) of section 42 in so far as the submissions relate to that vetting disclosure.
- (8) For the purposes of an inquiry under section 43 in relation to a complaint made under subsection (1)(g) to which subsection (1E) applies, a panel may consider—
  - (a) the information contained in a vetting disclosure referred to in subsection (1E) in so far as the information grounds the complaint under subsection (1)(g), and
  - (b) submissions (if any) made by the registered teacher concerned under subsection (7)(a)(ii) of section 42 in so far as the submissions relate to that vetting disclosure.”.

### **Offences - panel inquiry**

23. The Principal Act is amended by the insertion of the following section after section 43A (inserted by *section 22*):

#### **“Offences - panel inquiry**

**43B.** (1) A person commits an offence where he or she—

- (a) on being summoned to attend before a panel for the purpose of an inquiry under section 43, fails to attend,
- (b) in attendance as a witness before a panel under section 43, refuses—
  - (i) to take an oath lawfully required by the panel to be taken,

- (ii) to produce any document in his or her power or control lawfully required by the panel to be produced by him or her, or
  - (iii) to answer any question to which the panel may lawfully require an answer,
- or
- (c) in attendance before a panel, does anything which, if the panel were a court of law having power to commit for contempt, would be contempt of court.
- (2) A person who commits an offence under subsection (1) shall be liable on summary conviction to a class C fine.”.

### **Withdrawal of complaint**

24. The Principal Act is amended by the insertion of the following section after section 43B (inserted by *section 23*):

#### **“Withdrawal of complaint**

**43C.** Where a complaint is withdrawn by the complainant—

- (a) while it is being considered by the Investigating Committee, the Committee may, with the agreement of the Council—
    - (i) decide that no further action is to be taken in relation to the matter the subject of the complaint, or
    - (ii) proceed as if the complaint had not been withdrawn,
- or
- (b) while it is being considered by a panel, the panel may, with the agreement of the Council—
    - (i) decide that no further action is to be taken in relation to the matter the subject of the complaint, or
    - (ii) proceed as if the complaint had not been withdrawn.”.

### **Amendment of section 44 of Principal Act**

25. Section 44 of the Principal Act is amended—

- (a) by the substitution of the following subsection for subsection (1):

“(1) Subject to subsection (1A), the panel may, having completed its report under paragraph (b) or paragraph (c) (as the case may be) of subsection (17) of section 43, make a decision—

- (a) that the registered teacher be removed from the register and that he or she is not eligible to apply to be restored to the register under section 31 before the expiration of such period, beginning with the date of removal, as may be specified by the panel in the decision,

- (b) that the registered teacher be suspended from the register for the period specified by the panel which period shall not exceed 2 years,
  - (c) that the registered teacher be retained on the register subject to all or any of the following conditions:
    - (i) that the teacher seek the assistance of such service relating to teacher health and welfare as may be available;
    - (ii) that the teacher attend a specified professional development course, or such other course as the panel considers appropriate;
    - (iii) the period within which the teacher shall comply with the conditions of the retention on the register;
    - (iv) such other conditions as the panel thinks fit,
  - (d) to advise, admonish or censure the registered teacher in writing.”,
- (b) by the insertion of the following new subsection after subsection (1):
- “(1A) If the report referred to in subsection (1) contains the measures included in a consent or undertaking in accordance with section 43(17)(b)(iii), then the panel shall make a decision to confirm those measures.”,
- (c) in subsection (2)—
- (i) by the substitution of “The Disciplinary Committee shall” for “The Director shall”, and
  - (ii) in paragraph (a), by the substitution of “the complainant” for “the applicant”,
- (d) in subsection (3)—
- (i) by the substitution of “A registered teacher may, within 21 days of the date of service of a notice under subsection (2), apply to the High Court for annulment of the decision (other than a decision to advise, admonish or censure under subsection (1)(d) or a decision under subsection (1A))” for “A registered teacher may, within 21 days of the date of service of a notice under subsection (2), apply to the High Court for annulment of the decision”, and
  - (ii) in paragraph (c), by the deletion of “of the Disciplinary Committee”,
- (e) in subsection (5), by the substitution of “Where a registered teacher does not apply to the High Court under subsection (3) for annulment of the decision (other than a decision to advise, admonish or censure under subsection (1)(d) or a decision under subsection (1A))” for “Where a registered teacher does not apply to the High Court under subsection (3) for annulment of the decision”,
- (f) in subsection (6), by the substitution of “Court of Appeal” for “Supreme Court” in each place it occurs,
- (g) by the insertion of the following subsections after subsection (6):
- “(6A) Where—

- (a) the decision of the High Court on an application under this section results in a registered teacher being removed from the register or the registration of a teacher being suspended,
- (b) the High Court or the Court of Appeal grants leave to a teacher under subsection (6) to appeal a decision of the High Court to the Court of Appeal on a specified question of law,
- (c) at the date of the grant of leave the teacher is employed as a teacher in a recognised school, and
- (d) that teacher is remunerated in respect of his or her employment out of moneys provided by the Oireachtas,

the High Court or the Court of Appeal, as the case may be, shall at the same time as it grants such leave to appeal direct whether that teacher shall continue to be remunerated pursuant to his or her contract of employment out of moneys provided by the Oireachtas pending the determination of that appeal.

- (6B) A direction of the High Court or the Court of Appeal under subsection (6A) that a teacher shall continue to be remunerated shall be subject to such terms and be for such period as the High Court or the Court of Appeal considers appropriate.”,

and

- (h) in subsection (7) by the substitution of—
  - (i) “Court of Appeal” for “Supreme Court”, and
  - (ii) “the complainant” for “the applicant”.

#### **Amendment of section 45 of Principal Act**

26. Section 45 of the Principal Act is amended by the insertion of the following subsection after subsection (2):

“(2A) Where a person fails to comply with any condition imposed on the person under section 44(3)(b)(iii), he or she shall be removed from the register.”.

#### **Notification to Minister, employer and other body of certain matters relating to sanctions**

27. The Principal Act is amended by the insertion of the following section after section 46:

##### **“Notification to Minister, employer and other body of certain matters relating to sanctions**

- 46A. (1) Where it comes to the Council’s attention that, under the law of a state other than the State, a decision corresponding to a decision referred to in any of paragraphs (a) to (d) of section 44(1) has been taken in relation to a registered teacher, the Council shall, as soon as practicable, give notice in writing to the Minister and where the



registered teacher is employed as a teacher, to his or her employer (if known), of the decision.

- (2) Where—
- (a) a decision takes effect under this Part in relation to a registered teacher to remove the teacher from the register, suspend the teacher from the register, retain the teacher on the register subject to conditions or to advise, censure or admonish the teacher, and
  - (b) the Council has reason to believe that—
    - (i) the teacher is registered in another jurisdiction, and
    - (ii) the decision referred to in paragraph (a) may not have come to the attention of a body duly authorised to perform functions in that jurisdiction that correspond to the functions of the Council,
 the Council shall give notice in writing to the body of the decision referred to in paragraph (a).”.

#### **Information Council may publish in public interest**

28. The Principal Act is amended by the insertion of the following section after section 46A (inserted by *section 27*):

#### **“Information Council may publish in public interest**

**46B.** The Council, if satisfied that it is in the public interest to do so shall—

- (a) advise the public when—
  - (i) a decision takes effect under this Part in relation to a registered teacher to remove the teacher from the register, suspend the teacher from the register, retain the teacher on the register subject to conditions or to advise, censure or admonish the teacher, or
  - (ii) a decision referred to in section 46A(1) comes to the attention of the Council,
 and
- (b) following consultation with the Disciplinary Committee, publish (with or without any information which would enable any party to an inquiry to be identified)—
  - (i) the findings of a panel under section 43(17)(b), and
  - (ii) the decision of a panel under section 44(1).”.

#### **Amendment of section 47 of Principal Act**

29. Section 47 of the Principal Act is amended by the insertion of the following subsections after subsection (3):

“(3A) Where—

- (a) the High Court makes an interim or interlocutory order under subsection (3) that the registration of a teacher be suspended,
- (b) at the date of making the order the teacher is employed as a teacher in a recognised school, and
- (c) that teacher is remunerated in respect of his or her employment out of moneys provided by the Oireachtas,

the High Court shall include in the order a direction as to whether that teacher shall continue to be remunerated pursuant to his or her contract of employment out of moneys provided by the Oireachtas.

- (3B) A direction of the High Court under subsection (3A) that a teacher continue to be remunerated shall be subject to such terms and be for such period (not exceeding the period specified in the order for which registration is suspended) as the High Court considers appropriate.”.

#### **Amendment to section 60 of Principal Act**

**30.** The Principal Act is amended by the substitution of the following section for section 60:

##### **“Non-admissibility of certain evidence**

- 60.** A statement or admission made by a person to a panel in relation to a complaint brought under Part 5 shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under section 43B).”.

#### **Amendment to Schedule 3 to Principal Act**

**31.** The Principal Act is amended by the substitution of the following Schedule for Schedule 3:

##### **“SCHEDULE 3**

Section 43

##### **PANEL**

1. Notwithstanding any vacancies in the membership of the Disciplinary Committee, a panel may be appointed from among the members of that Committee.
2. The procedures of a panel shall be laid down from time to time in rules made by the Council with the consent of the Minister.
3. The Disciplinary Committee shall appoint the chairperson of a panel from among the members of the panel.
4. The Council shall make available to the panel such services, including staff, as the panel may reasonably require.”.

**Amendment of section 24 of Education Act 1998**

**32.** Section 24(7)(b) (amended by section 6 of the Education (Amendment) Act 2012) of the Education Act 1998 is amended—

(a) by the insertion of the following subparagraph after subparagraph (i):

“(ia) whose registration is renewed under section 33 (amended by section 14 of the *Teaching Council (Amendment) Act 2015*) of the Act of 2001,”,

(b) in subparagraph (iii)—

(i) by the substitution of “sections 32, 34, 35 or 45 (amended by the *Teaching Council (Amendment) Act 2015*)” for “sections 34 or 35”, and

(ii) by the substitution of “Act of 2001,” for “Act of 2001, or”,

(c) in subparagraph (iv), by the substitution of “Act of 2001, or” for “Act of 2001.”, and

(d) by the insertion of the following subparagraph after subparagraph (iv):

“(v) who stands removed or suspended from the register under Part 5 of the Act of 2001.”.

**Repeals**

**33.** Section 41 of the Principal Act is repealed.

**Short title, collective citation and commencement**

**34.** (1) This Act may be cited as the Teaching Council (Amendment) Act 2015.

(2) The Teaching Council Acts 2001 to 2012 and this Act, other than *section 32*, may be cited together as the Teaching Council Acts 2001 to 2015.

(3) The Education Acts 1878 to 2012 and *section 32* may be cited together as the Education Acts 1878 to 2015.

(4) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.