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**An Bille um Chomhairle Mhúinteoireachta (Leasú), 2015**  
**Teaching Council (Amendment) Bill 2015**

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*Mar a tionscnaíodh*

*As initiated*

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**TEACHING COUNCIL (AMENDMENT) BILL 2015**

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## 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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AN BILLE UM CHOMHAIRLE MHÚINTEOIREACHTA (LEASÚ), 2015  
TEACHING COUNCIL (AMENDMENT) BILL 2015

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# Bill

*entitled*

An Act to amend the Teaching Council Act 2001; to amend the Education Act 1998 and to provide for related matters. 5

**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

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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; 15

‘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; 20

‘delivery of home tuition’ shall be construed in accordance with subsection (1A) (inserted by *section 2(b)* of the *Teaching Council (Amendment) Act 2015*); 25

‘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 30

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; 5

‘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; 10

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

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

and

(b) by the insertion of the following subsection after subsection (1): 15

“(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.”. 20

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

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

(a) in subsection (2), 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;”, 25

and

(b) in subsection (3), by— 30

(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.”. 35

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

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

- (a) in paragraph (c), by the substitution of the following subparagraph for subparagraph (iv):

“(iv) National University of Ireland, Maynooth;”, 5

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; 10
- (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; 15
- (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 29 of Principal Act**

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### **5. Section 29 of the Principal Act is amended—**

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

- (i) by the substitution of the following subparagraph for subparagraph (iv):

“(iv) whether the registration is subject to conditions under section 31 (amended by *section 7 of the Teaching Council (Amendment) Act 2015*, section 33 (amended by *section 11 of the Teaching Council (Amendment) Act 2015*) or section 44 (amended by *section 17 of the Teaching Council (Amendment) Act 2015*);”, 25

and

- (ii) by the insertion of the following subparagraph after subparagraph (x): 30

“(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 35

- (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**

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6. 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 (6A) (inserted by *section 17(f) of the Teaching Council (Amendment) Act 2015*) of section 44 and subsection (3A) (inserted by *section 19 of the Teaching Council (Amendment) Act 2015*) of section 47, a person who is employed as a teacher in a recognised school but—

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- (a) is not a registered teacher, or

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- (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**

7. Section 31 of the Principal Act is amended—

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- (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;”,

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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—

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- (i) qualifications,

- (ii) teaching experience, and

- (iii) medical fitness;”,

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

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“(5A) The Council may seek a vetting disclosure in respect of a registered teacher applying for renewal of 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 7 of the Teaching Council (Amendment) Act 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 9 of the Teaching Council (Amendment) Act 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 5

(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,” 10

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**

8. Where, before the coming into operation of *section 7*, 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 7* and the provisions of section 31 as amended by *section 7* shall apply accordingly. 15

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

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9. 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—

(a) applies for registration under section 31, or

(b) is requested to do so by the Council under subsection (4A) 25  
(inserted by *section 11* of the *Teaching Council (Amendment) Act 2015*) of section 33,

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.”. 30

### **Amendment of section 32 of Principal Act**

10. 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.”. 35

### **Amendment of section 33 of Principal Act**

#### **11. Section 33 (inserted by section 9 of the Education (Amendment) Act 2012) of the Principal Act is amended—**

(a) by the substitution of the following subsection for subsection (2):

- “(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, in accordance with subsection (4D), that a person 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.”

(b) in subsection (3), by—

- (i) the substitution of “A registered teacher” for “Subject to subsection (2) and to the payment of such renewal fee as may be prescribed under section 23, a registered teacher”, and
- (ii) the insertion of “under this section” after “his or her registration”,

(c) by the substitution of the following subsection for subsection (4):

- “(4) Subject to subsection (4A)(c), an application for renewal of registration shall be made before the expiration of the period of validity of registration and the renewal fee shall be paid before the expiration of such period.”

(d) by the insertion of the following subsections after subsection (4):

- “(4A) (a) The Council may seek a vetting disclosure in respect of a registered teacher applying for renewal of registration under this section.
- (b) Where the Council intends to seek a vetting disclosure in accordance with paragraph (a), it shall notify a registered teacher in writing that it will be seeking a disclosure in respect of him or her for the purposes of his or her next renewal of registration under this

section and such notice shall be issued—

- (i) not earlier than 10 months from 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 this paragraph. 5
- (c) Where a registered teacher receives notification from the Council under paragraph (b), that teacher shall comply with section 31A within such period as the Council shall specify in the notice and the period for compliance specified in the notice shall be the same in respect of all registered teachers to whom a notice is issued in accordance with this subsection. 10
- (4B) In considering whether to seek a vetting disclosure under subsection (4A) in respect of a registered teacher, the Council shall have regard to— 15
  - (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, 20
  - (c) whether a vetting disclosure has previously been received by the Council in respect of the 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 25
  - (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. 30
- (4C) Where the Council seeks a vetting disclosure under subsection (4A) 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 11 of the Teaching Council (Amendment) Act 2015*, the Council may not consider that information for the purposes of subsection (4D) unless the conduct concerned would have constituted a criminal offence at the time the conduct occurred. 35
- (4D) Where the Council receives a vetting disclosure under this section in respect of a person the Council shall, for the purpose of satisfying itself that the person is a fit and proper person to have his or her registration renewed, consider— 40

- (a) subject to subsection (4C), the information contained in the disclosure,
  - (b) any submissions made by the person under subsection (4E), and
  - (c) any documentary and other evidence submitted by that person to the Council in accordance with requirements (if any) prescribed under subsection (2)(c). 5
- (4E) 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 15
- (4F) 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.”,
- (e) by the substitution of the following for subsection (7): 20
- “(7) 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) (amended by *section 11(a) of the Teaching Council (Amendment) Act 2015*), 25
    - (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, 30
  - (b) shall, where the Council seeks a vetting disclosure in respect of a person under subsection (4A), refuse to renew the registration of the person where—
    - (i) that person has failed to comply with subsection (4A) within the time specified in the notice issued under that subsection and the Council has not been in a position to determine if that person is a fit and proper person to have his or her registration renewed in accordance with subsection (4D), or 35
    - (ii) it is not satisfied that that person is a fit and proper person to have his or her registration renewed, 40

or

- (c) may renew the registration of a person subject to such conditions (if any) as the Council considers appropriate.”,

and

- (f) by the insertion of the following subsection after subsection (8): 5

“(9) Where the Council makes a decision under subsection (7) (amended by *section 11(e)* of the *Teaching Council (Amendment) Act 2015*)—

- (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 (10). 10

- (10) A person may, within 21 days of the date of service of a notice under subsection (9), apply to the High Court for annulment of the decision concerned and the Court, on hearing the application, may— 15

- (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 20

- (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.”. 25

### **Conditions on registration applicable on renewal of registration**

#### **12. (1) Where—**

- (a) prior to the coming into operation of *section 11* 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 30

- (b) on the coming into operation of *section 11* the registration of that teacher stands renewed under section 33 of that Act, 35

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 (7) (amended by *section 11(e)* of the *Teaching Council (Amendment) Act 2015*) of section 33 of the Principal Act.

#### **Amendment of section 34 of Principal Act**

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#### **13. 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 (4A) of that section applies, subsection (1) shall only apply where the registered teacher has complied with subsection (4A) of section 33.”,

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and

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

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“(b) Where a complaint has been made in relation to a registered teacher under section 42 (amended by *section 15* of the *Teaching Council (Amendment) Act 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 or any inquiry in relation to that complaint has been completed in accordance with Part 5.”.

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

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#### **14. 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 15* of the *Teaching Council (Amendment) Act 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 or any inquiry in relation to that complaint has been completed in accordance with Part 5.”.

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

#### **15. 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: 5
- (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; 10
  - (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); 15
  - (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 20 consisting of acts or omissions that, if done or made in the State, would constitute an offence triable on indictment.
- (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— 25
- (a) would have constituted a criminal offence at the time that conduct occurred, and 30
  - (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, 35
    - (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 40



relates occurred prior to the coming into operation of this Part.

(1D) Where, in respect of a registered teacher, a vetting disclosure—

(a) is received by the Council on behalf of another relevant organisation that the Council represents for the purpose of vetting procedures under the Act of 2012, and 5

(b) contains information, other than specified information in respect of the teacher which relates to conduct of that 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 concerned occurred, 10

the Council may make a complaint to the Investigating Committee in respect of that registered teacher on the grounds that the information disclosed in the vetting disclosure (other than the specified information referred to in paragraph (b)) is of such a nature as to reasonably give rise to a *bona fide* concern that that teacher may— 15

(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. 20

(IE) A complaint made under subsection (1) or subsection (1D) shall, subject to this section, be considered by the Investigating Committee.

(1F) 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.”, 25

(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 30

(c) accompanied by such documents and information as may be relevant to the complaint.”,

(c) in subsection (3)—

(i) in paragraph (a), by the substitution of “all complaints made under subsection (1) or subsection (1D)” for “all applications made under subsection (1)”, and 35

(ii) in paragraph (b)—

(I) by the substitution of “refuse to refer a complaint” for “refuse an application”, and

- (II) in subparagraphs (i) and (ii), by the substitution of “the complaint” for “the application” in each place it occurs,
- (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— 5
- (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, 10
- (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, 15
- (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, 20
- the Director shall, as soon as reasonably practicable, inform that employer of that teacher of the complaint and the nature of that concern.
- (3B) Where— 25
- (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 30
- (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 Director shall, as soon as reasonably practicable, inform the employer of that teacher of the complaint and the nature of that concern.”, 35

- (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, 5
- (f) in subsection (5)—
  - (i) in paragraph (a), by the substitution of “an inquiry into the fitness to teach of a registered teacher in respect of a complaint” for “an inquiry in respect of an application”,
  - (ii) in paragraph (b)— 10
    - (I) by the substitution of “a complaint” for “an application”, and
    - (II) by the substitution of “the complaint” for “the application” in each place it occurs,
- (g) in subsection (6), by the substitution of—
  - (i) “a complaint” for “an application”, and 15
  - (ii) “the complainant” for “the applicant”,
- (h) in subsection (7), by the substitution of “complaint” for “application” in each place it occurs,
- (i) 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— 20
    - (i) harm any child or vulnerable person,
    - (ii) cause any child or vulnerable person to be harmed, 25
    - (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. 30
  - (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. 35
  - (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 15* of the *Teaching Council (Amendment) Act 2015*, the Council 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.”, 5 10

- (j) 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: 15
- (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; 20
  - (iii) require that the information requested under subparagraph (ii) be supplied by the complainant by means of a statutory declaration; 25
  - (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.”,

- (k) by the insertion of the following paragraphs after paragraph (a): 30

- “(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. 35 40
- (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, 5

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 10

(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. 15

(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.”, 20

(l) 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 25

(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, 30

and the Investigating Committee shall give its decision, and in the case of a decision under paragraph (b), the reasons for that decision, in writing to the Director.”,

(m) in paragraph (a) of subsection (10), by the substitution of “the complainant” for “the applicant”, and 35

(n) 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, 40

- (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**

5

#### **16. Section 43 of the Principal Act is amended—**

- (a) in subsection (1), by the substitution of “hold an inquiry into the fitness to teach of a registered teacher in respect of a complaint” for “hold an inquiry in respect of an application”,
- (b) by the substitution of the following subsection for subsection (3): 10
  - “(3) Following an inquiry by a panel in accordance with Schedule 3 and rules made under paragraph 2 of that Schedule, the panel shall—
  - (a) where the panel make no finding against the registered teacher in respect of a complaint under any of paragraphs (a) to (g) of subsection (1) of section 42, dismiss the complaint, 15
  - (b) where the panel makes a finding or findings against the registered teacher in respect of a complaint under any of paragraphs (a) to (g) of subsection (1) of section 42 make a report of the inquiry for the Disciplinary Committee and shall specify in the report—
    - (i) the nature of the complaint, 20
    - (ii) the evidence laid before the panel,
    - (iii) the panel’s finding or findings,
    - (iv) 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 25
    - (v) any other matter in relation to the registered teacher which the panel considers appropriate,
  - (c) where the panel 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 30
 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, provide the Disciplinary Committee with a report specifying— 35
    - (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 the panel 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.”, 10

and

(c) in subsection (4)—

(i) by the substitution of “a complaint” for “an application”, and

(ii) in paragraph (a), by the substitution of “the complainant” for “the applicant”.

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

15

**17.** Section 44 of the Principal Act is amended—

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

“(1) The Disciplinary Committee may, following its consideration of the report of the inquiry made by the panel under paragraph (b) or (c) (as the case may be) of subsection (3) of section 43, make a decision— 20

(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 Disciplinary Committee in the decision, 25

(b) that the registered teacher be suspended from the register for the period specified by the Disciplinary Committee 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: 30

(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 Disciplinary Committee considers appropriate; 35

(iii) the period within which the teacher shall comply with the conditions of the retention on the register;

(iv) such other conditions as the Disciplinary Committee thinks fit,

(d) to advise, admonish or censure the registered teacher in writing.”,

- (b) in subsection (2)(a), by the substitution of “the complainant” for “the applicant”,
  - (c) in subsection (3), 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))” 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”, 5
  - (d) 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))” for “Where a registered teacher does not apply to the High Court under subsection (3) for annulment of the decision”, 10
  - (e) in subsection (6), by the substitution of “Court of Appeal” for “Supreme Court” in each place it occurs,
  - (f) by the insertion of the following subsections after subsection (6): 15
    - “(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, 20
      - (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, 25

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. 30
    - (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.”, 35
- and
- (g) 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**

- 18.** 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.”. 5

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

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

“(3A) Where— 10

- (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, 15

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 20  
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 Schedule 3 to Principal Act**

- 20.** Schedule 3 to the Principal Act is amended— 25

- (a) in paragraph 1(1), by the substitution of “a complaint in respect of” for “an application for an inquiry into the fitness to teach of”,
- (b) in paragraph 5, by the substitution of “the complainant” for “the applicant”, and
- (c) by the insertion of the following paragraph after paragraph 6:

“7. In this Schedule, ‘document’ includes— 30

- (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 35
- (d) any audio or video recording.”.

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

**21.** 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 11 of the Teaching Council (Amendment) Act 2015*) of the Act of 2001,”,

(b) in subparagraph (iii)—

(i) by the substitution of “section 32 (amended by *section 10 of the Teaching Council (Amendment) Act 2015*), 34, 35 or 45 (amended by *section 18 of the Teaching Council (Amendment) Act 2015*)” for “section 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**

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

### **Short title, collective citation and commencement**

**23.** (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 21*, may be cited together as the Teaching Council Acts 2001 to 2015.

(3) The Education Acts 1878 to 2012 and *section 21* 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.



An Bille um Chomhairle Mhúinteoireachta  
(Leasú), 2015

# BILLE

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht do leasú an Achta um Chomhairle  
Mhúinteoireachta, 2001; do leasú an Achta  
Oideachais, 1998 agus do dhéanamh socrú i  
dtaobh nithe gaolmhara.

*An tAire Oideachais agus Scileanna a thiolaic,  
21 Eanáir, 2015*

Teaching Council (Amendment) Bill 2015

# BILL

*(as initiated)*

*entitled*

An Act to amend the Teaching Council Act 2001; to  
amend the Education Act 1998 and to provide  
for related matters.

*Presented by the Minister for Education and Skills,  
21st January, 2015*

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
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