



**SEANAD ÉIREANN**

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**AN BILLE UM CHOMHAIRLE MHÚINTEOIREACHTA  
(LEASÚ), 2015**

**TEACHING COUNCIL (AMENDMENT) BILL 2015**

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

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# SEANAD ÉIREANN

## AN BILLE UM CHOMHAIRLE MHÚINTEOIREACHTA (LEASÚ), 2015 —AN TUARASCÁIL

### TEACHING COUNCIL (AMENDMENT) BILL 2015 —REPORT

#### *Leasuithe Amendments*

*\*Government amendments are denoted by an asterisk*

- \*1. In page 6, line 10, to delete “Act of 1998” and substitute “Act of 1998, subsection (22) of section 33 (amended by *section 11#* of the *Act of 2015*)”.

[# *This is a reference to the section proposed to be inserted by amendment 3.*]

- \*2. In page 8, to delete lines 23 to 27 and substitute the following:

“31A. Where a person applies for registration under section 31”.

[*For the information of Senators, the text proposed to be deleted above was amended by amendment 1 on the list of committee amendments made by the Seanad.*]

- \*3. In page 9, to delete pages 9 to 12, and in page 13, to delete lines 1 to 21 and substitute the following:

#### **“Renewal of registration**

11. 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 11#* 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 Council 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.”.”.

[# *This is a reference to the section proposed to be inserted by this amendment.*]

[*For the information of Senators, the text proposed to be deleted above was amended by amendments 2 to 6 inclusive on the list of committee amendments made by the Seanad.*]

- \*4. In page 13, line 27, to delete “section 33(7)(c)” and substitute “section 33(16)(c)”.
- \*5. In page 13, line 37, to delete “section 33(10)(b)” and substitute “section 33(19)(b)”.
- \*6. In page 13, between lines 37 and 38, to insert the following:

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

- 13. The Principal Act is amended by the insertion of the following section after section 33A (inserted by *section 12*):

**“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).”.”.

\*7. In page 14, to delete lines 13 and 14 and substitute the following:

“under subsection (16) of section 33 (amended by *section 11#* of the *Teaching Council (Amendment) Act 2015*) of the Principal Act.”.

[# *This is a reference to the section proposed to be inserted by amendment 3.*]

[*For the information of Senators, the text proposed to be deleted above was amended by amendment 7 on the list of committee amendments made by the Seanad.*]

\*8. In page 14, lines 21 and 22, to delete “subsection (4A)” and substitute “subsection (5)”.

\*9. In page 14, line 23, to delete “subsection (4A)” and substitute “subsection (5)”.

\*10. In page 24, to delete section 46B inserted by amendment 8 on the list of committee amendments made by the Seanad and substitute the following:

**“ “Information Council may publish in the 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).”.”.”.