

SAMOA

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2016, No. 4

AN ACT to regulate the registration of teachers, establish the Samoa Teachers Council and regulate professional standards and breach of professional standards, and for related purposes.
[09th February 2016]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

PART 1
PRELIMINARY

1. Short title and commencement-(1) This Act may be cited as the Teachers Act 2016.

(2) This Act commences on a date nominated by the Minister.

2. Interpretation - In this Act, unless the context otherwise requires:

“Chairperson” means the member elected as such under section 26;

“child” means a person under 18 years;

“Council” means the Samoa Teachers Council established by section 25;

“early childhood centre”, means an early childhood education centre registered under the Education Act 2009;

“graduate teacher” means a person who:

(a) graduated from a tertiary institution with a minimum qualification listed under section 10(1)(a); and

(b) has less than two (2) years teaching experience or without any teaching experience.

“Minister” means the Minister responsible for Education;

“Ministry” means the Ministry responsible for Education;

“mission school” has the meaning in the Education Act 2009;

“National University of Samoa” means the University established as such under the National University of Samoa Act 2006;

“principal” means the person-in-charge of a school;

“private school” has the meaning in the Education Act 2009;

“professional standards” means professional standards, approved by the Council under section 29, for competencies, skills, knowledge, behaviour, appraisals, and values that enable a teacher to effectively teach, and includes code of ethics for teachers;

“public body” has the meaning in the Public Bodies (Performance and Accountability) Act 2001, and includes the Central Bank of Samoa;

- “recognised in Samoa” means recognised by the Government, Council or Samoa Qualifications Authority;
- “register” means a register established under section 19;
- “Registrar” means the person designated as such under section 31;
- “registration” means the registration of a person as a teacher in the category of full registration or any of the categories of temporary registration under section 6;
- “Remuneration Tribunal” means the Tribunal established as such under the Remuneration Tribunal Act 2003;
- “Samoa Qualifications Authority” means the Authority established as such under the Samoa Qualifications Authority Act 2010;
- “school” has the meaning in the Education Act 2009; and includes an early childhood centre;
- “serious offence” means an offence, committed in Samoa or another country, which carries a penalty of a fine of at least 100 penalty units or of imprisonment of at least five (5) years, and includes a sexual offence involving a child as the victim irrespective of the level of penalty;
- “sexual offence” means a sexual offence involving a child as the victim under the Crimes Act 2013 or other enactment, and includes a sexual offence involving a child as the victim committed in another country;
- “Sosaiete Faiaoga Samoa” means the society incorporated as such under the Incorporated Societies Ordinance 1952;
- “teach” means to teach in a school by delivering an educational programme or assessing student participation in an educational programme;
- “teaching licence” means the teaching licence issued under Division 5 of Part 2, authorising a registered teacher to teach in a school;
- “teacher” means a person who is registered as such under this Act whether or not the person also holds a current teaching licence, and “registered teacher” has the same meaning;
- “tertiary institution” means a university or other post-secondary institution or higher educational institution;
- “Tribunal” means the Teachers Tribunal established by section 38.

3. Application - This Act:

- (a) binds the Government; and
- (b) applies to teachers in -
 - (i) government schools;
 - (ii) mission schools;
 - (iii) private schools; and
 - (iv) early childhood education centres; but
- (c) does not apply to those who teach in tertiary institutions.

4. Relationship with employment - This Act does not affect the employment of teachers:

- (a) under the Public Service Act 2004; or
- (b) who are privately employed under any contract of employment.

PART 2 REGISTRATION OF TEACHERS

Division 1 - General

5. Teachers to be registered and licensed-(1) A person must not teach in a school unless the person has both of the following:

- (a) a current certificate of registration;
 - (b) a current teaching licence.
- (2) This section does not apply to:
- (a) a teacher trainee while undertaking teacher training in a school; or
 - (b) a teacher or class of teachers, approved in writing by the Council (and may be subject to conditions), who are undertaking any volunteer teaching under -
 - (i) any bilateral agreement between Samoa and another country; or
 - (ii) any arrangement between Samoa and any regional or international organisation or agency.

6. Categories of registration-(1) A person qualified to be registered under this Act may be registered in any of the following categories:

- (a) full registration; or
 - (b) temporary registration.
- (2) The categories of temporary registration are:
- (a) graduate teachers; and
 - (b) volunteer teachers, subject to section 5(2)(b); and
 - (c) teachers from another country who wish to teach in Samoa for up to two (2) years, subject to the Labour and Employment Relations Act 2013 and the Immigration Act 2004; and
 - (d) part-time teachers; and
 - (e) any other categories prescribed by regulations.

7. Power to grant registration and period of registration-(1) The Council may grant or refuse to grant:

- (a) an application for full registration; or
 - (b) an application for temporary registration, including an application for extension under section 15;
 - (c) an application for re-registration under section 24.
- (2) The Council may grant an application under subsection (1) with or without conditions.
- (3) The period of registration is:
- (a) for full-registration, valid until the registration is cancelled, subject to section 22; and
 - (b) for each category of temporary registration, valid for two (2) years, subject to section 15.
- (4) The Council may, upon application, provide preliminary advice on whether or not a non-citizen is qualified for registration under this Act for the purposes of work permits issued under the Labour and Employment Relations Act 2013.

8. Restrictions on granting of registration-(1) The Council must not grant an application under section 7 if the applicant, whether in Samoa or another country:

- (a) has behaved in a manner contrary to the professional standards; or

- (b) has behaved in a manner that shows that the applicant is unfit -
 - (i) to be registered as a teacher; or
 - (ii) to work in a child related field; or
 - (c) has not met the requirements in the professional standards for competencies and appraisal or similar requirements in the country of a non-citizen applicant.
- (2) For the purpose of subsection (1), the Council must take into account any of the following:
- (a) if the applicant was refused registration as a teacher in another country, the reason for the refusal;
 - (b) if the applicant's employment in a school was terminated, the reason for the termination; and
 - (c) if the applicant was registered as a teacher in another country -
 - (i) the nature of and reasons for any condition of registration; or
 - (ii) any suspension or cancellation of registration and the reasons; or
 - (iii) any other way (and the reasons) the registration was affected;
 - (d) any conviction of the applicant for a serious offence in Samoa or another country, and the relevance of the offence to the duties of a teacher to teach;
 - (e) any charge or conviction of the applicant for a sexual offence;
 - (f) any other prescribed matters.

9. Criminal records-(1) The Registrar may ask the Commissioner of Police to provide a written report containing the following information about an applicant for registration or a teacher about the person's criminal record, in Samoa or overseas, kept by the Police, including a brief description of the offence in criminal record.

(2) The Commissioner of Police must, as soon as possible, provide the written report to the Registrar.

(3) If an applicant or a teacher is recently convicted of an offence in Samoa:

(a) the Attorney General, for cases in the Supreme Court;
and
(b) the Commissioner of Police, for cases in the District Court or other subordinate court,
must, as soon as possible, give the Registrar a written notice of the conviction.

- (4) The written notice must contain the following particulars:
- (a) the person's name; and
 - (b) if the person is convicted of the offence -
 - (i) particulars of the offence; and
 - (ii) the date of the conviction; and
 - (iii) the court that imposes the conviction;and
 - (iv) the sentence imposed by the court; and
 - (c) if the person appeals the conviction -
 - (i) the grounds of appeal; and
 - (ii) the court to which the appeal is made;and
 - (iii) a copy of the judgment or order of the appellate court.

Division 2 - Full registration

10. Qualifications and experience-(1) A person is qualified for full registration if the person holds any or more of the following qualifications from a tertiary institution recognised in Samoa:

- (a) the minimum qualification -
 - (i) a diploma in education; or
 - (ii) a bachelor degree in education; or
 - (iii) a bachelor degree in other discipline plus a graduate diploma in education; or
- (b) other additional qualification -
 - (i) masters of education; or
 - (ii) doctorate in education; or
- (c) any other minimum or additional qualifications prescribed by regulations.

(2) In addition to the qualifications under subsection (1), the person must, in the last 10 years from date of application, have at least two (2) years teaching experience in:

- (a) a school in Samoa or another country; or
- (b) a tertiary institution in Samoa; or
- (c) a tertiary institution, in another country, recognised in Samoa.

(3) As an exception to subsections (1) and (2), the Council may accept any:

- (a) alternative tertiary qualification relevant to teaching (other than those specified in subsection (1)); and
- (b) teaching experience specified in subsection (2).

11. Application-(1) A person qualified under section 10 may apply in the approved form to the Council for full registration.

(2) The application is to be sent to the Registrar and the application is to be accompanied by the following:

- (a) the prescribed fees;
- (b) the original (or certified copy) birth certificate;
- (c) for a non-citizen, a certified copy of the information page of his or her passport;
- (d) a certified copy of the academic qualification;
- (e) the proof of teaching experience;
- (f) the police clearance -
 - (i) for citizens, by the Samoa Police Service;
 - (ii) for non-citizens, by the police authority of the country of citizenship or permanent residence;
- (g) character reference from two (2) reputable persons over the age of 30 years who knew the applicant for at least three (3) years immediately before the date of the application;
- (h) any other information or document prescribed by regulations.

(3) In subsection (2)(g), “reputable persons” means:

- (a) teachers with full registration and at least five (5) years of teaching experience; or

- (b) professional persons registered under the legislation regulating that profession with at least five (5) years' experience; or
- (c) persons holding managerial positions with at least five (5) years' experience; or
- (d) church or religious ministers; or
- (e) Members of Parliament; or
- (f) prescribed persons.

12. Processing of application-(1) When an application is received, the Registrar must inform the Chairperson to convene a meeting of the Council to determine the application.

(2) The Council must determine the application within 15 working days of the meeting in which the application is first brought before the Council for consideration.

(3) The Council may extend the 15 working days in subsection (2) for a further period of 15 working days if there are good reasons to extend the period, such as requiring further information under subsection (4).

(4) The Council may request the applicant:

- (a) to provide further information; or
- (b) to appear before it to be heard on his or her application.

(5) If an application is refused, the Council must give its reasons for refusing the application.

(6) The Registrar must send the reasons for refusal to the applicant within five (5) working days of giving the reasons.

Division 3 - Temporary registration

13. Qualifications and experience - The following qualifications apply to temporary registration:

- (a) graduate teachers, any qualification specified under section 10(1)(a);
- (b) volunteer teachers, any qualification and experience under section 10(1)(a) and (2) or section 10(3);
- (c) teachers from another country, qualification and experience under section 10(1) and (2) or section 10(3);

- (d) part-time teachers, qualification and experience under section 10(1) and (2) or section 10(3).

14. Application-(1) A person who is qualified for temporary registration may apply in the approved form to the Council for registration.

(2) The application is to be sent to the Registrar and the application is to be accompanied by the following:

- (a) the prescribed fees;
- (b) the original (or certified copy) birth certificate;
- (c) for a non-citizen, a certified copy of the information page of his or her passport;
- (d) a certified copy of the academic qualification;
- (e) the proof of teaching experience;
- (f) the police clearance -
 - (i) for citizens, by the Samoa Police Service;
 - (ii) for non-citizens, by the police authority of the country of citizenship or permanent residence;
- (g) character reference from two (2) persons over the age of 30 years who knew the applicant for at least three (3) years immediately before the date of the application;
- (h) any other information or document prescribed by regulations.

15. Application for extension-(1) A teacher in section 6(2)(a) category may apply for full registration, within three (3) months before the teacher's temporary registration expires.

(2) A teacher in any of the categories in section 6(2)(b) to (d) may apply in the approved form (accompanied by the prescribed fee) to extend his or her temporary registration for a further term of two (2) years.

(3) The Council may determine whether any additional information to such submitted in the original application is to be provided with the application for extension.

(4) Upon receiving an application for extension, the Council may advise the applicant to apply for full registration or treat the application as if it were an application for full registration.

16. Processing of application-(1) When an application in this Division is received, the Registrar must inform the Chairperson to convene a meeting of the Council to determine the application.

(2) The Council must determine the application, within the period of 15 working days of the meeting in which the application is first brought before the Council for consideration.

(3) The Council may extend the 15 working days in subsection (2) for a further period of 15 working days if there are good reasons to extend the period, such as requiring further information under subsection (4).

(4) The Council may request the applicant to provide further information or to appear before it to be heard on his or her application.

(5) If an application is refused, the Council must give its reasons for refusing the application.

(6) The Registrar must send the reasons for refusal to the applicant within five (5) working days of giving reasons by the Council.

Division 4 - Certificate of registration and registers

17. Certificate of full registration-(1) When an application for full registration is granted by the Council, the Registrar must issue, in the approved form, a certificate of full registration to the applicant.

(2) The certificate of full registration is to be issued only upon payment of the prescribed registration fee.

(3) A condition imposed by the Council on the full registration is to be stated in the certificate.

18. Certificate of temporary registration-(1) When an application for temporary registration is granted by the Council, the Registrar must issue, in the approved form, a certificate of temporary registration to the applicant.

(2) The certificate of temporary registration must only be issued upon payment of the prescribed temporary registration fee.

(3) The certificate must state:

(a) the category applied for; and

(b) any condition imposed by the Council.

19. Registers-(1) The Registrar must, in the approved form, establish and maintain:

- (a) a Register of Teachers (Full Registration); and
- (b) a Register of Teachers (Temporary Registration).

(2) The Register of Teachers (Full Registration) must set out the following details:

- (a) the name, address and contact of teachers;
- (b) the qualification and teaching experience, including any course undertaken;
- (c) the teaching licence and its period;
- (d) the name of any school (in Samoa or another country) in which the teacher is or was employed as a teacher;
- (e) if the teacher is a non-citizen, the teacher's country of citizenship or permanent residence and address and contact details in that country;
- (f) any conditions of registration or teaching licence;
- (g) any suspension or cancellation of registration;
- (h) any complaint against the teacher for professional misconduct and any decision of the Council or Tribunal;
- (i) any other information determined by the Council.

(3) The Register of Teachers (Temporary Registration) must set out the following details:

- (a) the name, address and contact of teachers;
- (b) the qualification and any teaching experience, including any course undertaken;
- (c) the name of any school (in Samoa or another country) in which the teacher is or was employed as a teacher;
- (d) if the teacher is a non-citizen, the teacher's country of citizenship or permanent residence and address and contact details in that country;
- (e) the date of temporary registration (including any extension) and teaching licence;
- (f) any conditions of registration or teaching licence;
- (g) any suspension or cancellation of registration;
- (h) any complaint against the teacher for professional misconduct and any decision of the Tribunal;
- (i) any other information determined by the Council.

(4) A teacher must, as soon as is practicable, inform the Registrar to amend or add any matter about the teacher in the Register, in particular the name, address, contact, qualification or experience or any course awarded.

(5) A person may, subject to payment of a prescribed fee, search the Register and obtain information in the Register except for personal information under subsection (2)(a) or (3)(a).

(6) A breach of subsection (4) is treated as a minor breach of professional standard.

Division 5 - Teaching licences

20. Teaching licence for full registration-(1) When a teacher is first issued with the certificate of full registration, the Registrar must also issue, in the approved form, to the teacher a teaching licence for full registration, upon payment of the prescribed fee for the teaching licence, subject to conditions imposed by the Council under subsection (4).

(2) The teaching licence for full registration is valid for three (3) years from the date of its issue.

(3) Within four (4) months before the expiry of a teaching licence, the teacher must apply, in the approved form and accompanied by the prescribed fee, to the Council.

(4) The Council may, with or without conditions, grant extension of teaching licence for full registration, which may include specifying the category of school or category of subject for which the licence relate.

(5) The Council must take into account the following when determining the application for extension:

- (a) any continuing training programme undertaken by the teacher during the period of the current teaching licence; or
- (b) the appraisal system for teachers in any government policy or by the employer of the teacher; or
- (c) any other prescribed matter.

21. Temporary teaching licence-(1) When a certificate of temporary registration or extension of temporary registration is granted under section 15, the Registrar may issue, in the approved

form, to the teacher a teacher's teaching licence for temporary registration, upon payment of the prescribed fee for the teaching licence, subject to conditions the Council may impose under section 20(4).

(2) The teaching licence for temporary registration is valid during the 2-year validity period of the temporary certificate of registration.

*Division 6 - Suspension,
cancellation and re-registration*

22. Suspension of registration-(1) Without limiting Part 4, the Council may, with or without conditions, suspend the registration of a teacher, if the teacher:

- (a) has been charged with a minor or serious professional misconduct under this Act;
- (b) has been charged with a serious offence, in Samoa or in another country;
- (c) has been charged with an offence under this Act;
- (d) breaches a condition of registration that does not warrant cancellation of registration.

(2) The Council must give an opportunity to the teacher to be heard before deciding whether or not the registration should be suspended.

(3) The teaching licence of the teacher is automatically suspended during the period of suspension of registration.

(4) When the period of suspension ends, the teaching licence of the teacher is automatically revived as if it is still valid, otherwise the teacher must apply for a new teaching licence.

23. Cancellation of registration-(1) Without limiting Part 4, the Council may cancel the registration of a teacher if the teacher:

- (a) has been found guilty of a serious offence in Samoa or in another country;
- (b) has been convicted of an offence under this Act;
- (c) has breached a condition of registration that warrants cancellation of registration;
- (d) was registered under a qualification obtained by fraud.

(2) A registered teacher may voluntarily apply to the Council to cancel his or her registration.

(3) The Council must give an opportunity to the teacher to be heard before deciding whether or not the registration should be cancelled under subsection (1).

(4) If the teacher is serving a sentence of imprisonment for a term of at least two (2) years, the registration of the teacher is treated to have been automatically cancelled, by operation of this subsection, from the date of imprisonment.

(5) The teaching licence of the teacher is treated to be cancelled from the date of cancellation of the registration.

24. Re-registration-(1) A person whose registration has been cancelled may apply to the Council for re-registration after five (5) years from the date of cancellation of registration.

(2) As an exception to subsection (1), a person whose registration has been cancelled may apply to the Council to abridge the time in subsection (1) to make the application for re-registration in special circumstances to be determined by the Council.

PART 3 ADMINISTRATION

Division 1 - Samoa Teachers Council

25. Establishment-(1) The Samoa Teachers Council is established comprising the following members:

- (a) the Chief Executive Officer of the Ministry;
- (b) the Chief Executive Officer of the Samoa Qualification Authority;
- (c) Dean of Education of the National University of Samoa;
- (d) four (4) teachers nominated by the Sosaite Faiaoga Samoa incorporated (or the successor body);
- (e) two (2) teachers teaching in a mission school, nominated by mission schools;
- (f) two (2) teachers teaching in a private school, nominated by private schools;

(g) one (1) teacher teaching in an early childhood centre, nominated from the National Council for Early Childhood Education of Samoa (or the successor body);

(h) one (1) member to represent the community who has knowledge, skills or experience about teaching nominated by the Minister.

(2) The Head of State, acting on the advice of Cabinet, may appoint the appointed members.

(3) The Council may invite any other person to attend its meeting to advise the Council, but the person has no right to vote.

(4) The Chief Executive Officer of the Ministry must facilitate the process of nomination of appointed members.

(5) In this Part, “appointed member” means a person appointed under subsection (1)(d) to (h).

26. Chairperson-(1) The members of the Council may, at its first meeting to be chaired by the Chief Executive Officer of the Ministry, elect a Chairperson from among the members who are teachers holding current teaching licences for full registration.

(2) The Chairperson is elected for a term of three (3) years and is eligible for re-election.

(3) As an exception to subsection (2), the Council may elect from among the members a new Chairperson if the current Chairperson:

(a) fails to carry out the functions of the Chairperson to the satisfaction of the members; or

(b) ceases to become a member.

27. Terms of office and remuneration - An appointed member:

(a) holds office for three (3) years; and

(b) is eligible for re-appointment; and

(c) is entitled to remuneration and allowances fixed by Cabinet and to be paid from the funds of the Council (except for members who are public servants or employees of a public body);

(d) on expiry of term, continues in office until re-appointment or a successor is appointed.

28. Resignation, termination and vacancy-(1) An appointed member may resign by delivering to the Chairperson a signed notice of resignation.

(2) The Council may, in consultation with the appointing authority, terminate the appointment of an appointed member:

- (a) by reason of physical or mental incapacity; or
- (b) failure to carry out the functions, duties and powers of the Council; or
- (c) for absence for three (3) consecutive meetings of the Council without authorisation of the Council.

(3) The office of an appointed member becomes vacant if:

- (a) the member resigns or dies; or
- (b) the appointment is terminated; or
- (c) for an appointed member under section 25(1)(e), (f) or (g), ceases to teach in a mission school, private school or early childhood centre, as the case may be.

29. Functions-(1) The Council has the following functions:

- (a) to implement policy matters relating to registration of teachers and the professional standards;
- (b) to approve, implement and advise on matters relating to, the professional standards and code of ethics, including review of professional standards and code of ethics every three (3) years;
- (c) to determine the requirements for the continuing professional developments to be undertaken by teachers;
- (d) to determine the professional rights of teachers relevant to teaching;
- (e) to promote the teaching profession and the professional standards to the public;
- (f) to inform teachers and the public about this Act;
- (g) to review this Act and report to the Minister about its operations;
- (h) to approve forms for the purpose of this Act;
- (i) to carry out any other function conferred on it under this Act or any other enactment.

(2) The Council must, when carrying out its functions under subsection (1), consult the Ministry, Samoa Qualification Authority, Sosaite Faiaoga Samoa, any other government Ministry or agency or any other person.

30. Meetings, Secretary and declaration of interest-(1) The following rules apply at a meeting of the Council:

- (a) meetings may be convened by the Chairperson once every two (2) months or as necessary to carry out its functions, duties and powers under this Act or any other enactment;
- (b) a meeting is to be chaired by the Chairperson or a member (qualified under section 26) elected by the members present, if the Chairperson is absent;
- (c) seven (7) members constitute a quorum;
- (d) the presiding member has a deliberative vote and a casting vote;
- (e) a decision is the decision supported by majority of the members;
- (f) minutes are to be kept and maintained by the Council.

(2) Subject to this Act, the Council may regulate its own procedures.

(3) The Registrar is to act as Secretary of the Council.

(4) A member who has any direct or indirect interest in any matter before a meeting of the Council must disclose the nature of the interest at the meeting.

(5) For the disclosure under subsection (4):

- (a) it must be recorded in the minutes of meeting; and
- (b) the member must not take any further part in a deliberation or decision relating to that matter, but is treated as part of the quorum for the deliberation or decision on that matter.

Division 2 - Registrar

31. Registrar-(1) A suitably qualified person may be appointed under the Public Service Act 2004 as the Registrar.

(2) The Registrar is responsible to and under the control of the Chief Executive Officer and the Council.

PART 4
APPEALS AND BREACH OF
PROFESSIONAL STANDARDS

Division 1 - Appeals

32. Appeals - A person aggrieved with any of the following decisions of the Council may appeal to the Tribunal:

- (a) decision to refuse full registration;
- (b) decision to refuse temporary registration;
- (c) decision to cancel registration on any ground under section 23(1);
- (d) decision to refuse teaching licence for full registration;
- (e) decision to refuse teaching licence for temporary registration;
- (f) any other prescribed decision of the Council.

Division 2 - Professional misconduct

33. Professional misconduct-(1) A teacher who breaches any provision of the professional standards commits professional misconduct.

(2) Regulations may prescribe minor or serious professional misconduct.

34. Making complaints-(1) Any of the following persons may make a complaint against a teacher (“subject teacher”) for breach of professional standard to the Council:

- (a) a student or a parent or guardian of the student from the school from which the subject teacher teaches;
- (b) another teacher;
- (c) the principal of the subject teacher;
- (d) a school committee;
- (e) any other prescribed person.

(2) The Registrar or the Council may on its own initiative instigate a complaint against the subject teacher.

(3) The complaint must:

- (a) be in writing; and
- (b) be in Samoan or English language; and

- (c) contain the name, address and contact of the subject teacher.

35. Assessment of complaints-(1) When a complaint is received, the Council must assess the complaint to determine whether the complaint:

- (a) warrants further investigation; or
 - (b) has any serious purpose or value or is brought without sufficient grounds to cause annoyance to the subject teacher; or
 - (c) amounts to an offence; or
 - (d) amounts to -
 - (i) a breach of a term or condition of employment of a teacher who is a public servant; or
 - (ii) a breach of the Codes of Conduct under Part IV of the Public Service Act 2004 by teacher who is a public servant; or
 - (iii) a breach of a term or condition of the employment contract of a teacher who is not a public servant.
- (2) If the complaint is frivolous or vexatious, the Council must:
- (a) dismiss the complaint; and
 - (b) inform the complainant and the reasons for its dismissal.
- (3) The Council must inform the complainant and the subject teacher on how the Council has dealt with the complaint.

36. Referral to other agencies-(1) If the complaint amounts to an offence, the Council must:

- (a) defer dealing with the complaint; and
 - (b) refer the matter to the Commissioner of Police for investigation.
- (2) When the Commissioner of Police receives a complaint from the Council, the Commissioner must inform the Council whether or not the subject teacher will be charged for an offence.
- (3) The Council must proceed with the complaint if:
- (a) the Commissioner of Police -

- (i) will not charge the subject teacher; or
 - (ii) withdrew the charge; or
 - (b) the person is not convicted of the charge.
- (4) The Council must refer the matter under section 35(1)(d) to the Public Service Commission or the employer to deal with the complaint.
- (5) The Public Service Commission or employer may refer the matter back to the Council to be dealt with under this Act if the complaint amounts to breach of professional standards.

37. Investigation and referral to Tribunal-(1) For section 35(1)(a), the Council may:

- (a) investigate the complaint; or
 - (b) appoint a member of the Council or another person with experience in investigating complaints to investigate the complaint.
- (2) When the investigation of the complaint has completed, the Council must refer the matter to the Tribunal to hear and determine the complaint.
- (3) The Council may request the Attorney General to appoint a lawyer in the Attorney General's Office or in another Ministry to present the complaint before the Tribunal.

Division 3 - Teachers Tribunal

38. Establishment-(1) The Teachers Tribunal is established comprising the following members:

- (a) a lawyer with at least eight (8) years of legal practice in Government (including government agencies or public bodies) or private, or both;
 - (b) a retired teacher;
 - (c) a member to represent the community.
- (2) The members of the Tribunal are to be appointed by the Head of State acting on the advice of Cabinet.
- (3) Sections 27 and 28 apply, with necessary modifications, to the members of the Tribunal.

39. Powers-(1) The Tribunal may:

- (a) hear and determine any appeal against the decision of the Council listed under section 32; or
- (b) hear and determine any complaint against a teacher; or
- (c) deal with any preliminary matters relating to paragraph (a) or (b); or
- (d) deal with any other matter prescribed by regulations.

(2) The Tribunal may dismiss the appeal or allow the appeal and refer the matter to the Council to review the decision.

40. Procedures - Procedures of the Tribunal are to be prescribed by regulations.

41. Penalties - The Tribunal may impose any or more of the following penalties:

- (a) censure the teacher;
- (b) suspend the teaching licence;
- (c) suspend the registration;
- (d) impose a penalty of not exceeding 50 penalty units to be paid to the Council;
- (e) cancel the teaching licence;
- (f) cancel the registration.

42. Appeal to the Supreme Court - A person may appeal on a question of law to the Supreme Court if the person is aggrieved with the decision of:

- (a) the Tribunal under section 39(2) to dismiss the appeal;
or
- (b) the Council after a review of a decision referred to it pursuant to section 39(2); or
- (c) the Tribunal under section 41.

PART 5 MISCELLANEOUS

43. Offences-(1) A person commits an offence if the person:

- (a) contravenes section 5(1); or
- (b) makes a false or misleading statement in an application for registration or in support of the application; or

- (c) holds himself or herself out to be a registered or licensed teacher; or
 - (d) knowingly employs, or offers employment to another person who is -
 - (i) not a registered or licensed teacher; or
 - (ii) a registered teacher without a current teaching licence;
 - (e) harasses or causes any detriment to a complainant for making a complaint under section 34.
- (2) A person is liable:
- (a) for a conviction under subsection (1)(a), to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding five (5) years, or both; or
 - (b) for a conviction under subsection (1)(b), to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) years, or both; or
 - (c) for a conviction under subsection (1)(c), to a fine not exceeding 40 penalty units or to imprisonment for a term not exceeding two (2) years, or both; or
 - (d) for a conviction under subsection (1)(d) or (e), to a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 12 months, or both.

44. Evidentiary certificates - A certificate signed by the Registrar certifying:

- (a) a person to be a registered teacher; or
- (b) a person as a holder of a current teaching licence; or
- (c) a condition of registration or teaching licence; or
- (d) an entry in the Register in relation to a teacher; or
- (e) a decision of the Council, Registrar or Tribunal under this Act,

is, unless the contrary is proven, evidence of the matters stated in the certificate.

45. Exemption from personal liability - A member of the Council or Tribunal, the Registrar or any other person required to carry out any function, duty or power under this Act is not personally liable for any act done in good faith in carrying out the function, duty or power.

46. Regulations - The Head of State, acting on the advice of Cabinet, may make regulations to give effect to the provisions or for the purposes of this Act, and in particular to make the following regulations:

- (a) to prescribe fees and charges for the purposes of this Act, subject to the approval of the National Revenue Board;
- (b) to prescribe procedures for monitoring the performance of teachers;
- (c) to prescribe any matter required to be prescribed under this Act.

47. Education Act 2009 amended - Part X of the Education Act 2009 is repealed.

48. Transition and saving-(1) At the commencement of this Act, any person currently teaching in a school is taken to have been registered under this Act for a period of two (2) years from the date of commencement of this Act.

(2) A person who is qualified to be registered as a teacher under this Act but is not currently employed as a teacher at the commencement of this Act must not teach in a school unless the person has been registered and issued with the teaching licence under this Act.

(3) A person under subsection (1) must apply for registration and teaching licence within that two (2) year period and the person is taken not to have been registered under this Act when that period expires.

(4) For this section, qualification of a current teacher or person qualified includes any other teaching certificate.

(5) Regulations may be made under section 46 to deal with any other transitional matters relating to this Act.

**The Teachers Act 2016 is administered by the
Ministry of Education, Sports and Culture.**

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