

A BILL

ENTITLED

AN ACT to Recognize and promote teaching as a profession; to contribute to improving the quality of teaching and learning in Jamaica by regulating the entry and standing of members of the teaching profession; to establish and maintain the registers of teachers and the Roll of Instructors; to establish and maintain professional standards for teacher competence and practice; to regulate the professional conduct of teachers to ensure, in the public interest, that teachers are fit and proper persons to teach; to create an enabling environment for the continuing professional development of teachers; and for those purposes to establish a body to be called the Jamaica Teaching Council; and to provide for connected matters.

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BE IT ENACTED by The Queen’s Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I—*Preliminary*

- Short title and commencement. **1.—**(1) This Act may be cited as the Jamaica Teaching Council Act, 2022, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.
- (2) Different days may be appointed for the coming into operation of different provisions of this Act.
- Interpretation. **2.** In this Act, unless the context otherwise provides—
- “all-age school” has the meaning assigned to it by section 2 of the Education Act;
- “application” means an application under Part VI;
- “appointed day” means the day appointed for the coming into operation of this Act or the days appointed for the coming into operation of different provisions of this Act, pursuant to section 1(2);
- “approved home education programme” means an organized set of learning activities, recognized by the Minister with responsibility for education, which are designed to enable a child to develop knowledge, understanding, skills and attitudes, relevant to the child’s individual needs and abilities, in which a parent of the child is primarily responsible for instructing the child, or causing the child to be instructed, other than by distance education, mainly at home, or at a place other than an educational institution;
- “authorization to teach” means the permission to teach (evidenced by certificate) granted by the Council under section 43;
- “best interests of the child” shall be construed in accordance with section 2(2) of the Child Care and Protection Act;

“Board” means the Board of Governors of the Council established by section 12(1);

“chief executive officer” means the chief executive officer of the Council appointed under section 18(1)(a);

“child” means a person who has not attained the age of eighteen years;

“condition” includes a limitation or restriction;

“Council” means the Jamaica Teaching Council established by section 6;

“CPD Framework” means the framework for the continuing professional development of teachers developed by the Council under section 11;

“criminal record check” means a search of—

- (a) the register of all persons convicted of a crime in Jamaica, kept pursuant to section 43 of the Criminal Justice (Administration) Act or such other records as may be prescribed in relation to the conviction of a person for a criminal offence under the laws of Jamaica; or
- (b) records, similar to those referred to in paragraph (a), kept pursuant to the laws of another country, state or territory;

“disqualified person” means a person who is convicted of a disqualifying offence;

“disqualifying offence” means an offence for which the penalty is a term of imprisonment of two years or more;

“document” means, in addition to a document in writing, anything in which information of any description is recorded;

“early childhood institution” has the meaning assigned to it by section 2 of the Early Childhood Commission Act;

“educational institution” has the meaning assigned to it by section 2 of the Education Act;

“education programme” means an organized set of learning activities designed to enable a student to develop knowledge, understanding, skills and attitudes relevant to the student’s individual needs;

“eligibility requirements” means the requirements set out in Part V in relation to registration as a teacher and the licensing or authorization to teach;

“employer” in relation to a teacher or Instructor, means a person who engages, employs, appoints or has the authority to direct a teacher or Instructor to teach or practice as a teacher, as the case may be, under this Act;

“existing Council” means the Council in existence immediately before the appointed day and known as the Jamaica Teaching Council;

“fit and proper person to teach” means an individual who is determined by the Council to be a fit and proper person to teach, in accordance with the requirements referred to in section 34;

“functions” includes duties and powers;

“independent school” has the meaning assigned to it by section 2 of the Education Act;

“information notice” means a written notice under section 32, 43 or 46(5), as the case may be, specifying—

(a) a decision of the Council; and

(b) the reasons for the decision of the Council;

“Inspector” means a licensed teacher or any other person authorized by the Minister under section 39(1) of the Education Act to carry out an inspection or a special inspection of an educational institution;

“Instructor” means a person who is not a teacher and who is authorized to teach and whose name is entered in the Roll of Instructors;

“licence” means a licence to practice as a teacher granted by the Council under section 43(2)(a);

“licensed teacher” means a registered teacher who is licensed by the Council to practice as a teacher under section 43(2)(a);

“overseas regulatory authority” means an entity established under the law of a country, other than Jamaica, that has functions similar to the functions of the Council;

“parent” has the meaning assigned to it by section 2 of the Education Act;

“practice as a teacher” includes the provision of the services specified in section 4;

“pre-primary school” has the meaning assigned to it by section 2 of the Education Act;

“primary school” has the meaning assigned to it by section 2 of the Education Act;

“principal” means the teacher appointed as the instructional leader of an educational institution who is also responsible for the management of the educational institution;

“private tutor” means a licensed teacher or Instructor who offers professional teaching services for a fee, pay, reward or other consideration, determined by the licensed teacher or Instructor;

“Professional Practice and Conduct Committee” means the Professional Practice and Conduct Committee constituted under paragraph 14(2)(b) of the First Schedule;

First
Schedule.

“professional standards” means the professional standards of teaching practice referred to in section 10;

“public educational institution” has the meaning assigned to it by section 2 of the Education Act;

“registered teacher” means a person who is registered by the Council as a teacher under section 43(1)(a);

“registers” means the registers kept and maintained under section 20;

“Registrar” means the person appointed as the Registrar of the Council under section 18(1)(c);

“regulations” means regulations made under section 74;

“Roll of Instructors” means the roll kept and maintained under section 21;

“rules” means rules made under section 75;

“school” has the meaning assigned to it by section 2 of the Education Act;

“specified offence” means an offence specified in the First Schedule to the Sexual Offences Act in relation to which reporting obligations under Part VII of that Act apply;

“student” means a person to whom an education programme is delivered;

“teach” means to undertake duties in any educational setting to which this Act applies that—

(a) include—

- (i) the delivery of an education programme designed to implement or supplement a curriculum or syllabus and the assessment of student participation in the education programme; or
- (ii) the administration of an education programme; and
- (iii) the services, specified in the Second Schedule, which support the delivery of the duties under paragraph (i) or (ii); but

- (b) does not include duties of the kind undertaken by—
- (i) a teacher's aide or a teacher's assistant in the care of students or the supervision of their work under the direction of a licensed teacher or a person who has been granted an authorization to teach under this Act;
 - (ii) a student enrolled in a teacher preparation course on practicum placement as part of that course;
 - (iii) a person employed or engaged to provide care at an early childhood institution, but who is not employed or engaged to teach at that institution; and
 - (iv) such persons, or in such circumstances, as may be prescribed;

“teacher” means a person, who, having been admitted to an educational teaching programme duly recognized in the country in which the person is qualified, has successfully completed a bachelor's degree in education or its equivalent or alternatively, a first degree with a post graduate diploma in education and thereby satisfies the qualifications to be registered as a teacher under this Act;

“Tribunal” means the Appeal Tribunal established by section 65.

3. The main objects of this Act are to—

Objects of Act.

- (a) recognise and promote teaching as a profession; and
- (b) contribute to improving the quality of teaching and learning in Jamaica by—
 - (i) regulating the entry and standing of members of the teaching profession;

- (ii) establishing and maintaining the registers of teachers and the Roll of Instructors;
- (iii) establishing and maintaining professional standards for teacher competence and practice;
- (iv) regulating the professional conduct of teachers to ensure, in the public interest, that teachers are fit and proper persons to teach; and
- (v) creating an enabling environment for the continuing professional development of teachers.

Application
of Act.

4.—(1) This Act applies to—

- (a) a person who teaches in an early childhood institution;
- (b) a person who teaches in a school, whether in a public educational institution or in an independent school;
- (c) an Instructor;
- (d) a guidance counsellor or dean of discipline, whether in a public educational institution or in an independent school;
- (e) a person who teaches in an approved home education programme, including a parent who teaches his own child and no other child, at home;
- (f) a private tutor, whether practising full-time or part-time;
- (g) a person who teaches in an education programme that prepares persons to become teachers;
- (h) an Inspector;
- (i) a principal; and
- (j) such other persons as may be designated by the Minister, by order, published in the *Gazette*.

(2) This Act does not apply to a person who teaches on an *ad hoc* voluntary basis, without pay, reward or other consideration.

5. A person shall, in the exercise of the functions of that person under this Act, regard the best interests of the child as the paramount consideration.

Best interests of the child, paramount.

PART II—*The Jamaica Teaching Council*

6.—(1) For the purposes of this Act, there is established a body to be called the Jamaica Teaching Council, which shall be a body corporate to which section 28 of the Interpretation Act shall apply.

Establishment of Jamaica Teaching Council.

(2) The provisions of the Third Schedule apply to the operations of the Council and otherwise in relation thereto.

Third Schedule.

7.—(1) Subject to the provisions of this Act, the functions of the Council shall be to—

Functions of Council.

- (a) register and license teachers;
- (b) grant authorization to teach;
- (c) investigate the fitness to teach of any person who is, or who is seeking to be registered and licensed or granted an authorization to teach under this Act;
- (d) determine the eligibility requirements for—
 - (i) registration as a teacher;
 - (ii) the grant of a licence; or
 - (iii) the grant of an authorization to teach;
- (e) determine the categories of—
 - (i) teachers to be registered;
 - (ii) teachers to be licensed; and
 - (iii) persons who are eligible to be granted authorization to teach;
- (f) keep and maintain the registers of teachers and the Roll of Instructors;
- (g) regulate the practice of teaching;

- (h) ensure the maintenance of the professional standards by registered teachers, licensed teachers and Instructors;
- (i) develop and maintain, adapt or incorporate and apply a professional learning framework to support and promote the continuing professional development of registered teachers, licensed teachers and Instructors;
- (J) give oversight, develop and deliver professional development programmes and activities in relation to the professional standards and code of ethics established by the Council;
- (k) ensure that registered teachers, licensed teachers and Instructors continue to meet the eligibility requirements for registration as teachers, for licensing to practice as a teacher or for the grant of an authorization to teach, as the case may be;
- (l) monitor and ensure the compliance of registered teachers, licensed teachers and Instructors with the conditions of—
 - (i) registration, licensing or authorization to teach, as the case may be;
 - (ii) professional standards; and
 - (iii) professional appraisals
- (m) conduct professional appraisals;
- (n) deal with the discipline of registered teachers, licensed teachers and Instructors;
- (o) assess the entry qualifications required by teachers and Instructors;
- (p) consider, and make recommendations to the Minister on matters relating to—
 - (i) the education, training and career development of teachers and whether, subject to section 34, a person is a fit and proper person to teach; and

- (ii) the supply of registered teachers and licensed teachers;
 - (q) confer and collaborate with employers, registered teachers, licensed teachers, Instructors, unions or other persons with respect to the performance of the functions of the Council;
 - (r) prepare a strategic plan and an annual business plan of the Council; and
 - (s) perform any other functions conferred upon the Council under this Act or any other enactment.
- (2) The Council may—
- (a) with the approval of the Minister, be a member of a company, association, trust or partnership;
 - (b) with the approval of the Minister, enter into a joint venture with any other person;
 - (c) apply for, obtain and hold, whether on behalf of the Council or jointly with any other person, intellectual property rights;
 - (d) assign or grant licences in respect of those intellectual property rights referred to in paragraph (c), with or without charge;
 - (e) enter into agreements and arrangements for the commercial exploitation of intellectual property rights;
 - (f) produce or publish any document necessary to perform the functions of the Council, charge for advertising in the document and enter into an agreement with any person or body to sell, lease, licence or otherwise deal with any document produced or published by the Council;
 - (g) provide services to recognized associations of professionals and para-professionals working in schools to assist in the development or administration of the entry and practice standards for the professionals and para-professionals;
 - (h) charge fees for providing services; and

- (i) refer any issue of equivalency of qualification to the relevant authority.

(3) The Council may, as the Council thinks fit—

- (a) give to any person, or publish, any advice relating to the functions of the Council;
- (b) carry out or commission research to inform the approach of the Council towards performing the functions of the Council; and
- (c) publicise, or assist in publicising, any matter relating to the functions of the Council.

(4) The Council shall perform the functions of the Council in a manner which is—

- (a) proportionate, accountable and transparent; and
- (b) consistent with any other principle which appears to the Council to represent best regulatory practice.

Council to have regard to certain matters in exercising the functions of the Council.

8. In performing the functions set out in section 7, the Council shall have regard to the following—

- (a) any power that may be exercised, and any duty that shall be performed under this Act, shall be exercised or performed fairly and in a manner such that any decisions made with respect to an applicant are transparent to and understandable by that applicant, with due regard to the circumstances of the applicant;
- (b) the need for the Council—
 - (i) to cooperate with other public bodies; and
 - (ii) to administer effectively, the laws that confer functions on the Council (including the minimization of procedural requirements and procedural duplication).

Delegation.

9.—(1) The Council may, by instrument in writing under seal, delegate a function under this Act, other than the power of delegation, to—

- (a) the chief executive officer;

- (b) a member of the Board;
- (c) a committee of the Board;
- (d) an officer, employee or agent of the Council; or
- (e) an entity prescribed by any regulations made under this Act.

(2) A delegation under subsection (1)—

- (a) may be made subject to such conditions as the Council considers fit;
- (b) is revocable at will; and
- (c) does not derogate from the power of the Council to act.

10.—(1) The Council shall develop and maintain, adapt or incorporate and apply, professional standards of teacher competence and practice for the purpose set out in subsection (2). Professional standards.

(2) The purpose of the professional standards is to detail the abilities, experience, knowledge, skills and conduct expected to be displayed by teachers, licensed teachers and Instructors, in order to help the Council to decide—

- (a) whether a person meets and continues to meet the eligibility requirements for registration as a teacher;
- (b) whether an applicant for licensing or the renewal of a licence maintains the professional standards;
- (c) whether a person meets and continues to meet the eligibility requirements for the grant or renewal of an authorization to teach; and
- (d) whether to approve or recognize a professional development programme or activity.

(3) The Council may amend any professional standards that the Council has developed, adapted or incorporated under subsection (1).

(4) If the professional standards are inconsistent with a requirement under this Act, the professional standards are invalid to the extent of the inconsistency.

(5) The Council shall—

- (a) cause the professional standards to be made available on the Council’s website;
- (b) ensure that copies of the professional standards, and each document developed and maintained, adapted or incorporated by the professional standards, are made available on request; and
- (c) ensure compliance with and uphold the professional standards referred to in subsection (1).

Continuing
professional
develop-
ment.

11.—(1) The Council shall, with the approval of the Minister, develop a framework for the continuing professional development of registered and licensed teachers (referred to in this Act as “the CPD Framework”).

(2) In developing the CPD Framework, the Council shall—

- (a) have regard to the professional standards; and
- (b) as the Council thinks necessary, consult with such bodies that are, in the opinion of the Council, representative of the majority of teachers.

(3) Subsection (2)(b) shall not prevent the Council from consulting with another person or body.

(4) The Council shall give notice, in such manner as the Council considers appropriate, to all registered teachers, licensed teachers and Instructors to whom the CPD Framework is relevant, of the matters provided for in the CPD Framework.

(5) The CPD Framework may specify—

- (a) the type of continuing professional development required; and
- (b) the prescribed minimum hours of continuing professional development that teachers, Instructors and other persons working in educational settings, to whom this Act applies shall undertake.

(6) The Council shall—

- (a) promote awareness among the teaching profession and the public of the benefits of the continuing professional development of registered teachers, licensed teachers, Instructors and other persons, to whom this Act applies;
- (b) review, approve or recognize the programmes relating to the continuing professional development of registered teachers, licensed teachers, Instructors and other persons, to whom this Act applies; and
- (c) perform such other functions in relation to the continuing professional development of registered teachers, licensed teachers, Instructors and other persons to whom this Act applies, as may be assigned to the Council by the Minister.

12.—(1) There is established, for the purposes of this Act, a Board of Governors of the Council.

Establishment of Board of Governors.

(2) The First Schedule shall have effect as to the constitution of the Board and otherwise in relation to the Board.

First Schedule.

13.—(1) The Board shall be the governing body of the Council and, subject to the provisions of this Act, shall be responsible for implementing the policies and overseeing the general administration of the Council.

Functions of Board.

(2) The Board shall—

- (a) ensure that the operations of the Council are, where applicable, in conformity with—
 - (i) the Financial Administration and Audit Act;
 - (ii) the Public Bodies Management and Accountability Act and any other law relevant to the management of public bodies; and
 - (iii) any directions given under section 14;

- (b) review, evaluate, approve and monitor the implementation by the Council of the Council's—
 - (i) corporate policies;
 - (ii) operational, strategic, annual business plan and other corporate plans;
 - (iii) annual budget proposals and submissions; and
- (c) review, evaluate and approve the financial statements and major expenditure proposals of the Council.

(3) The Board may give directions to the chief executive officer with regard to the management of the Council.

(4) In the performance of the functions of the Board, the Board shall operate in a manner that maximizes the effective and efficient operation of the Council.

(5) Subject to the provisions of this Act, the Board—

- (a) may establish policies on—
 - (i) human resource management, including establishing a code of conduct and a system of performance-based evaluation;
 - (ii) financial management;
 - (iii) employee benefits;
 - (iv) property management; and
 - (v) enterprise risk management (other than risks associated with tax compliance);
- (b) shall approve annual, quarterly and other reports of the Council which are required by this or any other enactment to be submitted to the Minister or to Parliament;
- (c) shall monitor the performance of the Council in respect of the performance targets and service standards of the Council;
- (d) may request and receive from the chief executive officer, periodic or special reports in written or oral form, in respect

of the management of the human, material and financial resources of the Council; and the chief executive officer shall give effect to the request;

- (e) shall ensure, whether by way of meetings or otherwise, that the Minister, the Permanent Secretary in the Ministry with responsibility for education and the Financial Secretary are kept abreast of matters relating to the administration and management of the Council, including any need for human, financial, technological and other resource requirements necessary for the achievement of performance targets.

14.—(1) The Minister may, after consultation with the chairman of the Board, give to the Board, in writing, such directions of a general character as to the policy to be followed by the Council in the performance of the functions of the Council as appear to the Minister to be necessary in the public interest and the Board shall give effect to the directions. Ministerial directions.

(2) The Minister shall not give a direction to the Board that relates to a particular application to or proceeding before the Council or a particular assessment about a person.

(3) The Council shall give effect to the directions given by the Minister under subsection (1).

15.—(1) The conferral of the powers of investigation upon the Council by this Act shall not be construed as affecting the exercise of any functions relating to the investigation of offences conferred upon any other authority (hereinafter referred to as an “investigative authority”), whether the functions are similar to the powers of the Council or not. Cooperation between Council and other authorities.

(2) Subject to any restrictions imposed on disclosure by any enactment, the Council may cooperate, and its cooperation may include the provision of documents and the sharing of other information with any investigative authority or overseas regulatory authority, where the Council is satisfied that the investigative authority or overseas regulatory authority has requested cooperation, and will use the documents provided or the information shared, in furtherance of those responsibilities and for no other purpose, and the disclosure does not contravene any enactment.

(3) Nothing in the foregoing provisions of this section authorizes a disclosure by the Council unless—

- (a) the Council is satisfied that the investigative authority or overseas regulatory authority is subject to adequate legal restrictions on further disclosures, including the provision to the Council of—
 - (i) an undertaking of confidentiality on the part of the investigative authority or overseas regulatory authority; or
 - (ii) an undertaking by the investigative authority or overseas regulatory authority not to disclose the information provided, without the consent of the Council; or
- (b) the Council is satisfied that the assistance requested by the investigative authority or overseas regulatory authority is required for the purposes of the functions of the investigative authority or overseas regulatory authority, as the case may be, including the conduct of civil, criminal, or administrative investigations or proceedings to enforce law administered by the investigative authority or overseas regulatory authority, as the case may be.

Obligation of
secrecy.

16.—(1) Every person having an official duty or being employed in the administration of this Act shall—

- (a) regard and deal with as secret and confidential, all documents or information obtained by the person, in the course of the performance of their duties, which relate to the income or affairs of any other person; and
- (b) make and subscribe a declaration to that effect before a Justice of the Peace.

(2) The obligation as to secrecy and confidentiality imposed by this section, in relation to any documents or information obtained under this Act continues to apply to a person despite the person having

ceased to have an official duty, be employed or otherwise concerned in the administration of this Act.

(3) Every person referred to in subsection (1), having possession of or control over any documents or information, who at any time communicates or attempts to communicate such information or anything contained in such documents to any person—

- (a) other than a Commissioner or an officer of a revenue department or any other person to whom that person is authorized, by the Minister, to communicate it, pursuant to any other law; or
- (b) otherwise than for the purposes of this Act,

commits an offence and is liable, on summary conviction in a Parish Court, to a fine not exceeding one million dollars, or to imprisonment for a term not exceeding twelve months.

(4) Any person to whom information is communicated under an authority of the Minister in that behalf shall regard and deal with such information as secret and confidential and shall make and subscribe a declaration to that effect, before a Justice of the Peace.

(5) Any person referred to in subsection (4) who at any time communicates or attempts to communicate any information referred to in that subsection to any person otherwise than for the purposes of this Act, commits an offence and is liable, on summary conviction in a Parish Court, to a fine not exceeding one million dollars, or to imprisonment for a term not exceeding twelve months.

(6) Every person having an official duty or being employed in the administration of this Act shall be bound by the provisions of the Official Secrets Act.

17. Notwithstanding section 16, the Council may disclose documents or information in any of the following circumstances—

- (a) if ordered by a court for the purposes of any civil proceedings;
- (b) on the written request of the Minister to—

Disclosure of information in certain circumstances.

- (i) the Assets Recovery Agency referred to in section 3 of the Proceeds of Crime Act, to facilitate the investigation of any criminal offence;
- (ii) any one or more of the authorities prescribed pursuant to subsection (2) and specified in the request to facilitate the investigation of any criminal offence.

Appoint-
ment of
officers and
other
employees.

18.—(1) The Council may appoint and employ, at such remuneration and on such terms and conditions as the Council thinks fit—

- (a) a chief executive officer;
- (b) an attorney-at-law;
- (c) a Registrar; and
- (d) such other officers, employees and agents as it thinks necessary for the proper carrying out of the provisions of this Act.

(2) For the purposes of subsection (1) and except with the prior approval of the Minister responsible for the Public Service—

- (a) no salary in excess of the prescribed rate shall be assigned to any post; and
- (b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned.

(3) For the purposes of subsection (2), the “prescribed rate” shall be such rate as the Minister responsible for the Public Service may prescribe, by order, subject to affirmative resolution.

Pensions,
gratuities and
other retiring
benefits.

19. The Council may, with the approval of the Minister responsible for the Public Service—

- (a) enter into arrangements respecting schemes, whether by way of insurance policies or otherwise; and
- (b) make regulations,

for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits, relating to employees of the Council and the arrangements or regulations may include provisions for the grant of

benefits to the dependants and the legal personal representatives of the employees.

PART III—*Registers and Roll of Instructors*

20.—(1) The Council shall cause the Registrar to keep and maintain accurate and up-to-date registers to be known as the— Registers.

- (a) “Register of Registered Teachers”, that records the following prescribed information in respect of each registered teacher—
 - (i) the first, middle and last names under which the person intends to carry out professional duties as a registered teacher and any other name by which the person is known;
 - (ii) the address of the person;
 - (iii) the qualification of the person;
 - (iv) the category of registration that the person holds;
 - (v) the registration number of the person;
 - (vi) the date of commencement of registration of the person;
 - (vii) any alternative route by which the person could have gained registration, if applicable;
 - (viii) the subject area through which the person is considered eligible for registration as a teacher;
 - (ix) a statement of any condition attached to registration and the expiry date of the condition; and
 - (x) any other prescribed information;
- (b) “Register of Licensed Teachers”, that records the following prescribed information in respect of each registered teacher granted a licence—
 - (i) the first, middle and last names under which the person intends to carry out professional duties as

a licensed teacher and any other name by which the person is known;

- (ii) the address of the person;
- (iii) the qualification of the person;
- (iv) the category of licence that the person holds;
- (v) the licence number of the person;
- (vi) the date of commencement of the licence and the date of expiration of the licence of the person;
- (vii) any alternative route by which the teacher could have gained the licence, if applicable;
- (viii) the subject area through which the teacher is considered eligible to be granted a licence;
- (ix) a statement of any condition attached to the licence and the expiry date of any condition; and
- (x) any other prescribed information.

(2) The Council may keep registers (apart from the registers specified in subsection (1)) of persons working in educational settings to which this Act applies, as the Council thinks fit.

(3) The Council shall make and publish rules governing the operation of any register kept under subsection (2).

(4) Rules made under subsection (3) may make provision for any register kept under subsection (2) as the Council thinks fit, and may, in particular, include provisions equivalent to provisions made by or under this Act in relation to the registers of teachers kept under subsection (1).

(5) The registers may be kept in any way the Council thinks appropriate, including in electronic form.

(6) Each register or part of each register shall be published by the Council, in such form and manner and at such times as may be prescribed.

21.—(1) The Council shall cause the Registrar to keep and maintain an accurate and up-to-date register to be known as the “Roll of Instructors”, that records the following prescribed information in respect of each person who is granted an authorization to teach—

Roll of
Instructors

- (a) the first, middle and last names under which the person intends to carry out professional duties as an Instructor and any other name by which the person is known;
- (b) the address of the person;
- (c) the qualification of the person;
- (d) the category of authorization to teach that the person holds;
- (e) the authorization number of the person;
- (f) the date of commencement of authorization to teach and the date of expiration of the authorization to teach of the person;
- (g) any alternative route by which the person could have gained authorization to teach, if applicable;
- (h) the subject area through which the person is considered eligible for the authorization to teach;
- (i) a statement of any condition attached to the authorization to teach and the expiry date of any condition; and
- (j) any other prescribed information.

(2) Section 20(2), (3), (4), (5) and (6) apply, with the necessary modifications, to the Roll of Instructors.

22.—(1) In this section—

Inspection of
registers and
Roll of
Instructors.

- (a) the “register and Roll information (professional)” means all of the information on the registers and Roll of Instructors; and
- (b) the “register and Roll information (public)” means the information on the registers and Roll of Instructors other than—
 - (i) the prescribed information under section 20(1)(a)(ii), 20(1)(b)(ii), 21(1)(b);

(ii) any other prescribed information.

(2) Registered and licensed teachers and Instructors may inspect the register and Roll information (professional) by logging onto a website maintained by the Council.

(3) Registered and licensed teachers and Instructors may authorize their employers or prospective employers to log onto the website maintained by the Council in order to inspect the register and Roll information (professional).

(4) For the purposes of subsection (3), “a prospective employer” is a person who has made an offer, whether conditional or otherwise, to employ another person to practice as a teacher or Instructor.

(5) The Council shall make the register and Roll information (public) open to inspection by any member of the public during normal office hours and a copy of that register or Roll shall be published electronically, on the Internet and in the *Gazette* at such time and in such manner as may be prescribed.

(6) A member of the public may, on application to the Council and on payment of the prescribed fee, if any, obtain a certified extract or copy of the register and Roll information (public).

(7) A document purporting to be an extract from or, a copy of, a register or the Roll of Instructors or any other document kept under this Act and purporting to be certified as such, shall, in any court and upon all occasions, be admissible and be *prima facie* evidence of the truth of the matters stated in the original document without the production of the original document.

Correction
of registers
and Roll of
Instructors.

23. It shall be the duty of the Registrar to—

- (a) recommend to the Council the removal of any entry from a register or the Roll of Instructors in accordance with this Act or any regulations made under this Act;
- (b) restore to a register or the Roll of Instructors any entry which the Council directs the Registrar to restore;

- (c) correct, in accordance with the directions of the Council, any entry in a register or the Roll of Instructors where, in the opinion of the Council, the entry was incorrectly made; and
- (d) make, from time to time, any necessary alterations in any of the information mentioned in sections 20 and 21.

PART IV—*Restriction on Teaching*

24.—(1) A person shall not practice as a teacher unless—

- (a) the person is a licensed teacher; or
- (b) the person is an Instructor.

Prohibition against practicing as a teacher without being registered and licensed or authorized.

(2) A person who contravenes subsection (1) commits an offence and is liable, on summary conviction in a Parish Court, to a fine not exceeding five hundred thousand dollars.

25.—(1) A person who is not a registered teacher, a licensed teacher or an Instructor shall not, as the case may be—

- (a) claim to be a registered teacher, a licensed teacher or an Instructor; or
- (b) take, assume or use any name, title, description, letter or abbreviation which implies or is calculated to lead persons to believe that the person is a registered teacher, a licensed teacher or an Instructor.

Offence of pretending to be a registered teacher, licensed teacher or Instructor, *etc.*

(2) A person who contravenes subsection (1) commits an offence and is liable, on summary conviction in a Parish Court, to a fine not exceeding five hundred thousand dollars.

26.—(1) A person shall not—

- (a) fraudulently make use of a licence or an authorization to teach, that is granted under this Act to the person or to any other person; or
- (b) make, or cause to be made, any false declaration or representation for the purpose of obtaining a licence or an authorization to teach, under this Act or aid or abet any other person in the making of a false declaration or representation.

Offences involving fraud and misrepresentation, *etc.*

(2) A person who contravenes subsection (1) commits an offence and is liable, on summary conviction, in a Parish Court, to a fine not exceeding five hundred thousand dollars or a term of imprisonment not exceeding six months.

(3) In giving any information under this Act, a person shall not—

- (a) make a statement, knowing it to be false or misleading; or
- (b) omit any matter, knowing that without that matter the information is false or misleading.

(4) A person who contravenes subsection (3) commits an offence and is liable, on summary conviction, in a Parish Court, to a fine not exceeding five hundred thousand dollars or a term of imprisonment not exceeding six months.

PART V—*Eligibility Requirements*

Eligibility Requirements for Registration

Eligibility for registration as a teacher.

27. A person is eligible to be registered as a teacher under this Act, if the Council is satisfied that the person—

- (a) has attained the age of eighteen years;
- (b) subject to paragraph (c), has attained the prescribed qualification for registration as a teacher;
- (c) has the English language skills (both written and oral) prescribed as suitable for registration as a teacher;
- (d) is a fit and proper person to teach;
- (e) is a Jamaican citizen, has permanent resident status, or holds a valid work permit allowing the person to work in Jamaica;
- (f) is not a disqualified person; and
- (g) meets any other prescribed requirements for registration as a teacher.

Eligibility Requirements for a Licence

28.—(1) A registered teacher is eligible for the grant of a licence under this Act, if the Council is satisfied that the registered teacher— Eligibility for a licence.

- (a) continues to be a fit and proper person to teach; and
- (b) is competent to teach and, except in the case of a newly qualified teacher, has complied with—
 - (i) the requirements of maintaining the professional standards as evidenced by participation, in the prescribed manner, in the continuing professional development programmes and activities comprised in the CPD Framework;
 - (ii) the requirement of having currency of practice as a teacher in Jamaica of at least three consecutive years within the five years immediately preceding the date of application for the licence;
- (c) has, in accordance with section 30, complied with the conditions for the grant of the licence;
- (d) is not a disqualified person; and
- (e) has complied with such other requirements for the grant of a licence, as may be prescribed.

(2) Notwithstanding subsection (1)(b), a registered teacher who has not practiced as a teacher for at least three consecutive years within the five years immediately preceding the date of application for the licence, may be granted a licence under this Act, subject to such conditions as may be imposed by the Council under section 30.

Eligibility Requirements for Authorization to Teach

29.—(1) A person may apply to the Council for an authorization to teach upon applying for a teaching position in a school, an approved home education programme or other educational setting to which this Act applies. Eligibility for grant of authorization to teach.

(2) Subject to subsection (3), a person is eligible for the grant of an authorization to teach from the Council, if the Council is satisfied that—

- (a) the prospective employer of the person is unable to find a licensed teacher who is suitable to fill the position;
- (b) the person has the skills and experience appropriate to advance the learning of a student or group of students; or
- (c) the person has skills that are in short supply;
- (d) the person has the knowledge, qualifications, skills or training reasonably considered by the Council to be relevant to a teaching position that the person has been offered;
- (e) the person is a fit and proper person to teach;
- (f) the person has the English language skills (both written and oral) prescribed as suitable for registration as a teacher;
- (g) the person is not a disqualified person; and
- (h) meets any other prescribed requirements for the grant of an authorization to teach.

(3) For the avoidance of doubt, a parent who proposes to instruct his child and no other child in an approved home education programme, shall apply for and obtain an authorization to teach under this Act.

(4) A parent who does not comply with the requirement specified under subsection (3) shall be subject to a school attendance order under section 22 of the Education Act.

*Conditions for Registration, Licensing and
Authorization to Teach*

Council may impose conditions for registration, licensing and authorization to teach.

30.—(1) Without limiting sections 27, 28 and 29, the Council may, by imposing conditions on registration, a licence or an authorization to teach, as the case may be, satisfy the Council that a person meets the eligibility requirements for—

- (a) registration under section 27;

- (b) the grant of a licence under section 28; or
- (c) the grant of an authorization to teach under section 29.

(2) The conditions imposed under subsection (1) may include the following—

- (a) conditions requiring the person to complete a course;
- (b) conditions requiring the supervision of the person;
- (c) conditions restricting the subjects that the person may teach;
- (d) conditions restricting the level of education (whether early childhood, primary or secondary education) that the person may provide;
- (e) conditions limiting the period for which registration, a licence or an authorization to teach remains in force; and
- (f) conditions requiring the provision of further evidence as to competence.

(3) A condition imposed under subsection (1) shall specify a period of time by which an applicant for registration, a licence or an authorization to teach shall comply with the condition.

(4) Without limiting subsection (1), the Council shall make it a condition of registration, a licence or an authorization to teach that—

- (a) if the person is charged with or convicted before a court of competent jurisdiction in Jamaica or elsewhere of an offence of a kind specified in the condition, the person shall, within fourteen days, give written notice of the charge or conviction, to the Council, containing the details specified in the condition;
- (b) if the person is dismissed from employment to teach in a school or other educational setting to which this Act applies, in response to allegations of unprofessional conduct, or resigns from the employment following allegations of unprofessional conduct, the person shall, within fourteen days, give written notice of the dismissal or resignation of the person to the Council, containing the details specified in the condition; and

- (c) if the person is dismissed from any employment in response to allegations of improper conduct [in their work as a teacher] or resigns from any employment following allegations of improper conduct relating to a child, the person shall, within fourteen days, give written notice of the dismissal or resignation of the person to the Council, containing the details specified in the condition.

(5) Where a person contravenes subsection (4), the Council may suspend the registration, licence or authorization to teach of the person.

Review, Amendment and Removal of Conditions

Application
for review of
condition.

31.—(1) This section applies to a person whose registration, licence or authorization to teach is subject to a condition, other than a condition imposed—

- (a) by the Council in proceedings under Part VIII; or
- (b) the Tribunal in proceedings under Part IX.

(2) A person under subsection (1) may make a written application to the Council asking for a condition to be reviewed and amended, cancelled or that a different condition be imposed on the registration, licence or authorization to teach.

Review of
condition by
Council.

32.—(1) The Council shall, within twenty-eight working days after being asked to review a condition under section 31, review the condition.

(2) After conducting a review under subsection (1), the Council may do one or more of the following—

- (a) amend the condition;
- (b) cancel the condition;
- (c) impose a new condition on the registration, licence or authorization to teach of the person if the Council is reasonably satisfied that the condition is necessary to ensure that the person meets the eligibility requirements; or

(d) refuse to amend or cancel the condition.

(3) If the Council decides to act in any manner as specified in subsection (2)(a) or (c), within twenty-eight working days after making the decision, the Council shall give the person an information notice about the decision.

(4) A decision under subsection (2) takes effect on the day the information notice under subsection (3) is given to the person or, if the notice states a later day of effect, the day so specified.

(5) Where the Council refuses to amend or cancel a condition, the person who is registered, licensed or authorized to teach may reapply for the condition to be amended or cancelled, after the expiration of any period specified for the performance of the condition or at least six months from the Council’s refusal, whichever is earlier.

33. The Council may cancel a condition imposed on registration, a licence or an authorization to teach of a person—

Cancellation of conditions.

- (a) if the Council is reasonably satisfied that—
 - (i) the condition has been fulfilled; or
 - (ii) it is no longer necessary for the person to meet the eligibility requirements; or
- (b) upon the application of the person concerned.

Fit and Proper Criteria

34.—For the purposes of this Act, a person is a fit and proper person to teach if the person satisfies the requirements set out in the Fourth Schedule.

Fit and proper to teach. Fourth Schedule.

PART VI—*Registration, Licensing and Authorization to Teach*

Application for Registration as a Teacher

35.—(1) Subject to this Act, every person who, on or after the appointed day, teaches, or proposes to teach, in a school or other educational setting to which this Act applies, shall apply in the prescribed form and manner to the Council to be registered to do so.

Application for Registration as a Teacher..

(2) An application under subsection (1) shall be accompanied by—

- (a) the documents or information on which the person relies to establish that the person meets the eligibility requirements specified in section 27;
- (b) in the case of a person who intends to teach in an early childhood institution, a consent signed by the applicant for the Council to conduct a criminal record check on the applicant in connection with the application;
- (c) the information specified in the application form relating to the identity of the applicant required for the purposes of the criminal record check;
- (d) any other document or other information reasonably required by the Council to decide the application; and
- (e) any prescribed document or other information.

Application for Licence to Practise as a Teacher

Application
for licence.

36.—(1) Subject to this Act, every person who practises as a teacher or proposes to practise as a teacher shall apply in the prescribed form and manner to the Council for a licence to do so.

(2) An application under subsection (1) shall be accompanied by each of the following—

- (a) the documents on which the person relies to establish that the person meets the eligibility requirements specified in section 28;
- (b) a consent signed by the applicant for the Council to conduct a criminal record check—
 - (i) on the applicant in connection with the application; or
 - (ii) if the application is granted, on the licensed teacher, where the Council has reason to believe that the applicant or the licensed teacher, as the

case may be, is not a fit and proper person to teach;

- (c) the information specified in the application form relating to the identity of the applicant required for the purposes of a criminal record check;
- (d) the prescribed application fee; and
- (e) any other document or information reasonably required by the Council to decide the application.

Application for Authorization to Teach

37.—(1) Subject to this Act, every person who is not a registered teacher or a licensed teacher who teaches, or proposes to be an Instructor, in a school or other educational setting to which this Act applies, shall apply in the prescribed form and manner to the Council for an authorization to teach.

Application for authorization to teach.

(2) An application under subsection (1) shall be accompanied by each of the following—

- (a) the documents or information on which the person relies to establish that the person meets the eligibility requirements specified in section 29;
- (b) a consent signed by the applicant for the Council to conduct a criminal record check—
 - (i) on the applicant in connection with the application; and
 - (ii) if the application is granted, on the Instructor, where the Council has reason to believe that the applicant or the Instructor, as the case may be, is not a fit and proper person to teach;
- (c) the information specified in the application form relating to the identity of the applicant required for the purposes of a criminal record check;
- (d) the prescribed application fee; and

- (e) any other documents or information reasonably required by the Council to decide the application.

Application for Authorization to Teach

Application
for authori-
zation to
teach.

37.—(1) Subject to this Act, every person who is not a registered teacher or a licensed teacher who teaches, or proposes to be an Instructor, in a school or other educational setting to which this Act applies, shall apply in the prescribed form and manner to the Council for an authorization to teach.

(2) An application under subsection (1) shall be accompanied by each of the following—

- (a) the documents or information on which the person relies to establish that the person meets the eligibility requirements specified in section 29;
- (b) a consent signed by the applicant for the Council to conduct a criminal record check—
 - (i) on the applicant in connection with the application; and
 - (ii) if the application is granted, on the Instructor,

where the Council has reason to believe that the applicant or the Instructor, as the case may be, is not a fit and proper person to teach;

- (c) the information specified in the application form relating to the identity of the applicant required for the purposes of a criminal record check;
- (d) the prescribed application fee; and
- (e) any other documents or information reasonably required by the Council to decide the application.

Documents and Other Information in Support of Application

Supporting
documents
for applica-
tion.

38.—(1) An application under this Part shall not be considered unless the prescribed documents and information and the prescribed

application fee and any other amounts payable to the Council, are submitted by the applicant.

(2) Subject to subsections (7) and (8), an applicant shall pay the prescribed fee for the conduct, by the Council, of a criminal record check, relating to the applicant.

(3) An applicant shall disclose to the Council the particulars of any spent convictions in relation to an application in accordance with the provisions of the Criminal Records (Rehabilitation of Offenders) Act.

(4) The information contained in or accompanying an application shall, if required by the Council, be verified by statutory declaration.

(5) The Council may defer deciding an application until it receives any statutory declaration required under subsection (4).

(6) An application may lapse if the applicant does not submit a statutory declaration required under subsection (4) upon the expiration of a reasonable period within which to do so, as notified by the Council.

(7) Subsection (8) applies if before the application is decided, the Council—

- (a) is given advice by or receives a recommendation of the Children's Advocate in relation to any negative information relating to the applicant; or
- (b) otherwise becomes aware that there is negative police information about the applicant.

(8) The Council may—

- (a) by notice, request that the applicant have a criminal record check done; and
- (b) defer deciding the application until the applicant provides the findings of a criminal record check done under paragraph (a).

Requirement to advise applicant of negative information from criminal record check.

39. Before using the information obtained from a criminal record check to determine whether an applicant is a fit and proper person to teach, the Council shall—

- (a) disclose any negative information to the applicant; and
- (b) allow the applicant a reasonable opportunity to make representations to the Council about the information obtained from the criminal record check.

Council's power to obtain other document or information from applicant.

40. Before deciding an application, the Council may, by notice, require the applicant to give the Council, within a specified time, any other document or information that the Council reasonably requires to decide the application.

Effect of failure by applicant to comply with a request for other document or information.

41. An applicant is taken to have withdrawn an application if the Council gives the applicant a notice under section 40 and the applicant does not comply with the notice within the specified time.

Council may use documents or information to verify application.

42. The Council may use any documents or other information held or obtained by the Council to verify information—

- (a) contained in or accompanying an application; or
- (b) obtained by the Council under this Act or any regulations made under this Act for that purpose.

Decision on Application

How Council may decide application.

43.—(1) The Council shall consider an application by a person for registration as a teacher and—

- (a) register the applicant as a teacher if the Council is satisfied that—
 - (i) the application was made in the prescribed manner, accompanied by the prescribed fee, where applicable, and by such documents as may be prescribed; and

- (ii) the applicant has met the eligibility requirements for registration as a teacher under section 27; or
 - (b) decide not to register the applicant as a teacher if—
 - (i) the application was not made in the prescribed form and manner required by section 35(1) or accompanied by the documents, information and consent required by section 35(2);
 - (ii) subject to section 30, the applicant has not met the eligibility requirements for registration as a teacher under section 27;
 - (iii) the applicant is or has become a disqualified person;
 - (iv) the applicant was previously registered, licensed or authorized to teach and the registration, licence or authorization to teach was revoked by the Council or the Tribunal, as the case may be, and the application being considered by the Council was made before the expiration of the period of two years from the date the revocation took effect.
- (2) The Council shall consider an application by a registered teacher for a licence and—
- (a) grant to the applicant a licence if the Council is satisfied that—
 - (i) the application was made in the prescribed manner, accompanied by the prescribed fee, where applicable, and by such documents as may be prescribed; and
 - (ii) the applicant has met the eligibility requirements for the grant of a licence under section 28; or
 - (b) decide not to grant the licence if—
 - (i) the application is not made in the prescribed form and manner required by section 36(1) or accompanied by the documents and prescribed application fee required by section 36(2);

- (ii) subject to section 30, the Council has reasonable grounds to believe that the applicant does not meet the eligibility requirements for the grant of a licence under section 28;
- (iii) the applicant is or has become a disqualified person; or
- (iv) the applicant was previously registered, licensed or authorized to teach and the registration, licence or authorization to teach was revoked by the Council and the application being considered by the Council is being made before the expiration of the period of two years from the date the revocation took effect.

(3) The Council shall consider an application for the grant of an authorization to teach and—

- (a) grant the applicant an authorization to teach if the Council is satisfied that—
 - (i) the application was made in the prescribed manner, accompanied by the prescribed fee, where applicable, and by such documents as may be prescribed; and
 - (ii) the applicant has met the eligibility requirements for the grant of an authorization to teach set out in section 29; or
- (b) decide not to grant the application for authorization to teach if—
 - (i) the application is not made in the prescribed form and manner required by section 37(1) or accompanied by the documents, information and prescribed application fee and consents required by section 37(2);
 - (ii) subject to section 30, the Council has reasonable grounds to believe that the applicant does not

meet the eligibility requirements for the grant of an authorization to teach under section 29;

- (iii) the applicant is or has become a disqualified person; or
- (iv) the applicant was previously registered, licensed or authorized to teach and the registration, licence or authorization to teach was revoked by the Council and the application being considered by the Council is made before the expiration of the period of two years from the date the revocation took effect.

(4) The Council shall notify the applicant, in writing, of the decision of the Council under subsection (1), (2) or (3), as the case may be, and shall furnish the applicant with evidence of the registration, licensing or the authorization to teach, as case may be, in the prescribed form.

(5) If the Council decides not to register an applicant or grant a licence or an authorization to teach, the Council shall give the applicant an information notice within forty-five days, or as soon as is reasonably practicable, about the decision of the Council.

(6) A person who is aggrieved by a decision of the Council not to register an applicant or grant a licence or an authorization to teach, may appeal under section 66.

(7) If the name of a registered teacher is removed from the register, any licence granted to the registered teacher shall cease to be valid.

(8) If the name of an Instructor is removed from the Roll of Instructors, an authorization to teach granted to the Instructor shall cease to be valid.

(9) Where a teacher is removed from a register or an Instructor is removed from the Roll of Instructors, the Council shall forthwith inform the employer of the teacher or Instructor, as the case may be.

(10) A licence shall not be granted to a registered teacher during any period of suspension of the registration of the teacher, and any licence granted to the teacher prior to the suspension shall cease to be valid during the period of suspension of the teacher.

*Period of Validity and Renewal of Licence and
Authorization to Teach*

Validity of
licence and
authorization
to teach.

44.—(1) The period for which a licence or authorization to teach, granted under this Act shall remain valid, shall be the period specified in the licence or the authorization to teach, as the case may be.

(2) The period specified in the licence shall not be longer than five years from the day the Council grants the licence and may be renewed for further periods, not exceeding five years for each period.

(3) The period specified in the authorization to teach shall not be longer than two years from the day the Council grants the authorization to teach, and may be renewed for further periods, not exceeding two years for each period.

(4) At the end of the period of the licence or authorization to teach, the licence or authorization to teach shall expire at midnight on the last day of the period specified in the licence.

(5) If an application for renewal of a licence or an authorization to teach is made before the period the licence or authorization to teach expires, the licence or authorization to teach is taken to continue until the application for renewal is decided.

*Application for Renewal of Licence and
Authorization to Teach*

Application
for renewal
of licence or
authorization
to teach.

45.—(1) A person may apply to the Council for the renewal of the person's licence or authorization to teach.

(2) An application under subsection (1) shall—

- (a) be made before the person's licence or authorization to teach expires, but no earlier than three months and no later than one month before the licence or authorization to teach expires;

- (b) be in the prescribed form; and
- (c) be accompanied by—
 - (i) documents identified in the prescribed form, reasonably required by the Council to decide the application;
 - (ii) the prescribed fee; and
 - (iii) any other prescribed requirements.

(3) Notwithstanding subsection (2)(a), the Council may consider an application for the renewal of a licence or authorization to teach, based on the circumstances of the particular case.

(4) A licence or an authorization to teach may be renewed only if the holder has—

- (a) practiced, during the currency of the licence, continuously, for at least three years; or
- (b) practiced, during the currency of the authorization to teach, continuously, for at least one school term or its equivalent in calendar months.

(5) Where an applicant does not meet the criteria specified in subsection (4)(a) or (b), the applicant shall proceed to apply for a licence under section 36 or an authorization to teach under section 37, as if the application is being made for the first time.

46.—(1) The Council shall consider an application for the renewal of a licence or an authorization to teach and either—

- (a) renew the licence or authorization to teach of the applicant, with or without conditions; or
- (b) decide not to renew the licence or authorization to teach of the applicant if—
 - (i) the application is not made in the prescribed form and manner required by section 45(2) or

Manner in which Council may decide application for renewal of licence or authorization to teach.

accompanied by the documents and prescribed application fee;

- (ii) the applicant has not held the licence or authorization to teach for the period specified in section 45(4)(a) or (b), as the case may be;
- (iii) subject to subsection (2), the Council has reasonable grounds to believe that the applicant would not meet the eligibility requirements for the grant of a licence under section 28 or an authorization to teach under section 29;
- (iv) the applicant is or has become a disqualified person;
- (v) the applicant has failed, without a cause acceptable to the Council, to comply with a condition imposed on the renewal of a licence or the renewal of an authorization to teach; or
- (vi) the licence or authorization to teach is subject to an order of suspension.

(2) The Council may impose any condition under subsection (1)(a) that the Council considers necessary for the applicant to meet the eligibility requirements for renewal of the licence or authorization to teach of the person.

(3) If the Council grants the renewal of a licence or authorization to teach, the licence or authorization to teach remains, subject to the conditions to which it was subject immediately before the renewal, other than a condition that has been fulfilled.

(4) The Council shall notify the applicant, in writing, of the decision of the Council under subsection (1)(a) and shall furnish the applicant with evidence of the renewal of the licence or the authorization to teach, as the case may be, in the prescribed form.

(5) If the Council decides not to renew a licence or an authorization to teach, the Council shall give the applicant an information

notice about the decision of the Council, as soon as is reasonably practicable, but no longer than seven working days after the date of the decision.

*Documents Evidencing Registration, Licensing and
Authorization to Teach*

47.—(1) A licence or an authorization to teach shall be in the prescribed form.

Form of
licence and
authorization
to teach.

(2) A licence shall specify the following—

- (a) the first, middle and last names under which the licensed teacher intends to carry out professional duties as a teacher and any other name by which the licensed teacher is known;
- (b) the category of licence that the teacher holds;
- (c) the licence number of the teacher;
- (d) the registration number of the teacher;
- (e) the date of commencement of the person's licence and its duration; and
- (f) any other prescribed information.

(3) An authorization to teach shall specify the following—

- (a) the first, middle and last names under which the person carries out professional duties as an Instructor and any other name by which the person is known;
- (b) the authorization number of the person;
- (c) the date of commencement of the authorization, including a statement of any condition attached to the authorization and the expiry date of any condition;
- (d) any other prescribed information.

48.—(1) A person who receives an information notice pursuant to section 32(3) or (4) shall, unless the person has a reasonable excuse, return the licence or authorization to teach, as the case may be, to the Council within twenty-one days after receiving the notice.

Amending or
replacing
licence or
authorization
to teach.

(2) On receiving the licence or authorization to teach, the Council shall—

- (a) amend the licence or authorization to teach, appropriately, or issue a replacement licence or authorization to teach, to the person; and
- (b) return the amended or replacement licence or authorization to teach, to the person.

*Deregistration or Revocation of Registration,
Licence or Authorization to Teach*

Deregistration;
revocation
of registra-
tion, licence
or authoriza-
tion to
teach.

49.—(1) The Council shall remove the name and particulars of a person from a register or the Roll of Instructors if—

- (a) the Council receives a notice, in writing, in the prescribed form, along with the licence or authorization to teach, from the person, requesting that the person be so removed; or
- (b) the registration, licence or authorization to teach of that person has been revoked, pursuant to this Act.

(2) Where applicable, upon the expiration of the period of time for appeal under section 66 by a person under subsection (1)(b), who is the subject of a pending removal from a register or the Roll of Instructors, the Council shall inform the employer or immediate former employer, as the case may be, of the person of the removal from the register or Roll of Instructors, as the case may be.

(3) The holder of a licence or authorization to teach under subsection (1)(b), shall surrender the licence or authorization to teach, by returning that licence or authorization to teach, to the Registrar, within fourteen days of being notified, in writing, by the Council of the revocation.

(4) A person who contravenes subsection (3) commits an offence and is liable, on summary conviction in a Parish Court, to a fine not exceeding five hundred thousand dollars.

PART VII—*Complaints*

50. A person who alleges that—

- (a) a registered teacher, a licensed teacher or an Instructor—
 - (i) has failed to comply with a condition imposed on the registration as a teacher, or on the licence or authorization to teach;
 - (ii) has contravened any of the professional standards referred to in section 10;
 - (iii) is not a fit and proper person to teach in accordance with section 34;
 - (iv) has contravened or failed to comply with a provision of this Act; or
- (b) the equivalent of the registration or licence of a teacher, or the authorization to teach of an Instructor has been suspended or revoked, by an overseas regulatory authority,

Making of complaint against a registered teacher, licensed teacher or Instructor.

may make a complaint, in writing, in the prescribed manner, to the Council, setting out the details of the alleged contravention.

PART VIII—*Investigation, Disciplinary Enquiry and Action**Powers of Investigation*

51. Upon receipt of a complaint under section 50, the Council shall, based on the circumstances and particulars of the complaint—

Referral of complaint.

- (a) refer the complaint to the Ministry with responsibility for education for investigation;
- (b) refer the complaint to the Board of the relevant educational institution or the other employer of the licensed teacher or Instructor, as the case may be, for investigation; or
- (c) conduct an enquiry into the complaint, pursuant to section 53.

52. The Ministry may, in writing, designate persons to conduct an investigation into any complaint received from the Council under section 51.

Designation of persons to investigate complaint.

Production and referral of report of investigation.

53. Upon completing an investigation pursuant to the referral of a complaint under section 51—

- (a) the person designated by the Ministry under section 51;
- (b) the Board of the relevant educational institution; or
- (c) the employer of the licensed teacher or Instructor, shall submit a report to the Council, of the findings of the investigation.

Decision to conduct disciplinary enquiry; lack of evidence, etc.

54.—(1) Pursuant to a report submitted under section 53 and subject to subsection (2), the Council may conduct an enquiry into any information received under section 53.

(2) Where the Council considers that a report submitted pursuant to section 53 affords insufficient evidence of the allegations or that the findings of the report indicate that the complaint is frivolous or vexatious, the Council shall, in writing, inform—

- (a) the complainant; and
- (b) any person against whom the complaint was made,

of the facts and reasons for its findings, and the Council shall take no further action in relation to the complaint.

Disciplinary Enquiry

Procedures to apply in relation to disciplinary enquiry.

55. The following procedures shall apply in relation to an enquiry conducted by the Council—

- (a) notice of the time and place at which the enquiry is to be held shall be served on—
 - (i) the registered teacher, licensed teacher or Instructor, who is the subject of the complaint;
 - (ii) the employer of the licensed teacher or Instructor; and
 - (iii) the person who made the complaint;
- (b) a record of the evidence adduced before the Council shall be made, dated and signed by the members of the Council conducting the enquiry;

- (c) the documents produced as exhibits before the Council shall be marked, dated and initialled by the chairperson and shall be attached to the file of the enquiry; and
- (d) in the absence of any party duly notified to attend the enquiry, the matter, which is the subject of the complaint, may be decided by the Council, *ex parte*.

56. The Council may take evidence on oath or affirmation for the purpose of the enquiry.

Evidence
before
Council.

57.—(1) The Council may, for the purpose of an enquiry, by notice, in writing, direct any person specified in subsection (2), to attend at the time and place specified in the notice for the purposes of the enquiry.

Attendance
at enquiry.

(2) Directions under subsection (1) may be given to—

- (a) the complainant;
- (b) the respondent;
- (c) any other person who, in the opinion of the Council, is likely to be able to provide information relevant to the enquiry or whose presence is, in the opinion of the Council, likely to be conducive to the settlement of the matter to which the complaint relates.

(3) The Council may in a notice under subsection (1), require the person to produce any document specified in the notice.

(4) A person served with a notice under subsection (3) shall not to be compelled to give evidence, or produce any document which the person would not be compelled to give evidence, or produce in any proceedings before a court.

(5) The Council shall give each party to an enquiry reasonable opportunity to call witnesses to give evidence, examine and cross-examine witnesses and make submissions to the Council.

58. A party to an enquiry may be represented by an attorney-at-law or any other person, or may elect to be self-represented.

Right of
Representa-
tion.

Disciplinary Action

Disciplinary orders; results of disciplinary enquiry.

59.—(1) Upon an enquiry conducted under section 54, the Council may, depending on the nature or seriousness of the complaint, make any of the following decisions—

- (a) issue a warning to the person;
- (b) censure or reprimand the person;
- (c) impose such conditions on the registration, licence or authorization to teach of the person;
- (d) suspend the registration, licence or authorization to teach of the person; or
- (e) revoke the registration, licence or authorization to teach of the person.

(2) In making a decision under subsection (1), the Council shall take into account any submissions made in accordance with the notice served under section 57.

(3) If the Council makes a decision under subsection (1), the Council shall, within seven days of the decision, serve a written notice on the person—

- (a) specifying the decision that has been made;
- (b) specifying the reasons for making the decision;
- (c) specifying the date that the decision takes effect (which shall be no earlier than the date that the notice is served); and
- (d) specifying the period that the decision may remain in force under section 60(1).

(4) A copy of a notice served under subsection (3) shall also be served on any person employing the person who is the holder of a licence or an authorization to teach.

(5) Where a registered teacher, a licensed teacher or an Instructor has been charged with a disqualifying offence, the Council may suspend the registration, licence or authorization to teach, as the case may be, held by the person, until the determination of the matter.

(6) Where it is proved to the Council, by a certificate of conviction from the Registrar of the Supreme Court or the Clerk of the Parish Court or from an equivalent officer from a court of competent jurisdiction outside of Jamaica, that a registered teacher, a licensed teacher or an Instructor has been convicted of a disqualifying offence, the Council shall, as soon as possible, and without further enquiry, revoke the registration, licence or authorization to teach, as the case may be, held by the person.

60.—(1) Where a suspension relates to a registered teacher, licensed teacher or Instructor who has been charged with a disqualifying offence, the suspension remains in force until the earlier of the following occurs—

Effect of suspension of registration, licence or authorization to teach.

- (a) the Council cancels the suspension; or
- (b) the charge that forms the grounds for the suspension is dealt with in any of the following ways—
 - (i) the charge is withdrawn or the prosecution for the offence charged is discontinued;
 - (ii) the person dies without the charge having been determined;
 - (iii) the charge is dismissed by a court;
 - (iv) the person is discharged by a court following committal proceedings;
 - (v) the person is acquitted of the offence by a court; or
 - (vi) the licence or grant of an authorization to teach of the person is revoked because the person was found guilty of a disqualifying offence by a court.

(2) For the purposes of this Act, a person whose registration, licence or authorization to teach is suspended, is deemed not to be registered, licensed or authorized to teach for the period of that suspension.

(3) A person whose registration, licence or authorization to teach is suspended shall not start or continue to practice as a teacher or Instructor in a school or other educational setting to which this Act applies.

(4) At the end of a suspension under this Act, the person whose registration, licence or authorization to teach was suspended, shall be reinstated as a registered teacher, licensed teacher or Instructor, as the case may be, and is considered to be registered, licensed or authorized to teach on the same conditions that were previously imposed on the registration, licence or authorization to teach, unless otherwise determined by the Council.

Effect of revocation of registration, licence or authorization to teach.

61.—(1) The registration or licence of a teacher or the authorization to teach of an Instructor, may be revoked, either for a specified period, not exceeding two years, or until the fulfilment of a specified condition.

(2) The revocation of the registration, licence or authorization to teach by the Council, in relation to a disqualifying offence remains in effect during an appeal.

(3) Where the Council decides to revoke the registration, a licence or an authorization to teach under section 59, the Council shall—

- (a) instruct the Registrar to remove the name of that person from the relevant register or Roll; and
- (b) publish the decision of the Council in the *Gazette* and a daily newspaper circulated in Jamaica.

(4) A person whose licence is revoked shall, within seven days of the date of the revocation, surrender the licence and every copy thereof to the Council.

(5) A person who contravenes subsection (4) commits an offence and is liable, on summary conviction in a Parish Court, to a fine not exceeding five hundred thousand dollars.

Registered teacher, licensed teacher or Instructor not disqualified if conviction overturned.

62. If a person's conviction for a disqualifying offence is overturned or quashed on appeal—

- (a) the person is no longer a disqualified person for the purposes of this Act; and
- (b) the Registrar shall, on the instructions of the Council—
 - (i) restore to the relevant register or the Roll of Instructors, as the case may be, the name of the person;

- (ii) reinstate the registration and reissue the licence or the authorization to teach to the person, on the same conditions on which the registration, the licence or the authorization to teach was held, immediately before the revocation, and,

cause a notice to be published in the *Gazette* and a daily newspaper circulated in Jamaica, specifying the matters in paragraphs (i) and (ii).

63.—(1) A person who employs a licensed teacher or an Instructor shall immediately notify the Council if—

Employers
duty to
report
dismissal or
resignation
of licensed
teacher or
Instructor.

- (a) the person takes any action, including the dismissal of the licensed teacher or Instructor, on the grounds specified in section 50; or
- (b) the licensed teacher or Instructor resigns or otherwise stops working for the person, in circumstances in which the person, but for that fact, would have or might have dismissed the licensed teacher or Instructor on the grounds specified in section 50.

(2) A notice to the Council under subsection (1) shall explain the circumstances which caused the person to take action against or dismiss, or to conclude that they would have or might have dismissed, the licensed teacher or Instructor.

(3) The employer of a person who is a licensed teacher or an Instructor under subsection (1) shall provide the Council with any information the Council may reasonably require to conduct an enquiry.

(4) The employer of a person who is a licensed teacher or an Instructor under subsection (1), shall forthwith notify the Council if the employer becomes aware that the licensed teacher or Instructor has been charged with or committed for trial for a disqualifying offence or convicted of a disqualifying offence.

64.—(1) The Registrar shall take all actions necessary to give effect to a decision of the Council under this Part.

Enforcement
of decision
of Council.

(2) Actions by the Registrar under subsection (1) include—

- (a) requiring the return of a licence or authorization to teach;

- (b) the amendment or endorsement of a licence or authorization to teach; and
- (c) the recording of matters in the appropriate register or in the Roll of Instructors.

PART IX—*Appeals*

Establishment of Appeal Tribunal.
Fifth Schedule.

65.—(1) For the purposes of this Act, there is established, a tribunal to be called the Appeal Tribunal.

(2) The Fifth Schedule has effect in relation to the Tribunal.

Appeals to Tribunal.

66. A person who is aggrieved by a decision of the Council or a disciplinary decision taken by the Board of an educational institution or any other employer of a licensed teacher or an Instructor, may appeal to the Tribunal against the decision, within twenty-eight days of being notified of the decision of the Council or the other employer of the licensed teacher or Instructor, as the case may be.

Procedures to apply in relation to hearing of Tribunal.

67.—(1) The following procedures shall apply in relation to a hearing conducted by the Tribunal—

- (a) notice of the time and place at which the hearing is to be held shall be served on the parties in relation to the complaint, and the notice shall be of not less than ten days;
- (b) a record of the evidence adduced before the Tribunal shall be made, dated and signed by the members of Tribunal conducting the hearing;
- (c) the documents produced as exhibits before the Tribunal shall be marked, dated and initialled by the chairperson and shall be attached to the file of the hearing; and
- (d) in the absence of any party duly notified to attend the hearing, the matter, which is the subject of the complaint, may be decided by the Tribunal, *ex parte*.

Evidence before Tribunal.

68. The Tribunal may take evidence on oath or affirmation for the purpose of the hearing.

69.—(1) The Tribunal may, for the purpose of a hearing, by notice, in writing, direct any other person specified in subsection (2), to attend at a time and place specified in the notice for the purposes of the hearing. Attendance at hearing.

(2) Directions under subsection (1) may be given to—

- (a) the complainant;
- (b) the respondent; and
- (c) any other person who, in the opinion of the Tribunal, is likely to be able to provide information relevant to the hearing or whose presence is, in the opinion of the Tribunal, likely to be conducive to the settlement of the matter to which the complaint relates.

(3) The Tribunal may, in a notice under subsection (1), require the person to produce any document specified in the notice.

(4) A person served with a notice under subsection (1) shall not be compelled to give evidence, or produce any document which the person would not be compelled to give evidence, or produce in any proceedings before a court.

(5) The Tribunal shall give each party to a hearing reasonable opportunity to call witnesses or give evidence, examine and cross-examine witnesses and make submissions to the Tribunal.

70. A party to a hearing may be represented by an attorney-at-law or any other person, or may elect to be self-represented. Right to representation.

71.—(1) On hearing an appeal under this Part, the Tribunal shall give its decision, in writing, within twenty-eight days, or such longer period as the Tribunal may reasonably require and may— Decision of Tribunal.

- (a) dismiss the appeal and confirm the decision of the Council, the Board of the educational institution or the other employer, as the case may be;
- (b) allow the appeal and set aside the decision of the Council, the Board of the educational institution or the other employer as the case may be; or
- (c) vary the decision of the Council, the Board of the educational institution or the other employer as the case may be.

(2) Having made a decision under subsection (1), the Tribunal may give such directions—

- (a) to the Council, as the Tribunal considers appropriate, including—
 - (i) directing the Council to remove the name of the person from the relevant register or Roll of Instructors;
 - (ii) directing that during a specified period (which period shall commence not earlier than seven days after the date of the decision of the Tribunal and shall not exceed two years) registration shall be suspended;
 - (iii) directing the Council to reinstate the registration, licence or authorization to teach of the person, subject to such conditions (if any) as the Tribunal considers appropriate: or
 - (iv) directing the Council to grant a licence or authorization to teach of the person, subject to such conditions (if any) as the Tribunal considers appropriate.
- (b) to the Board of the educational institution or other employer of a licensed teacher or an Instructor, as the Tribunal considers appropriate, including directing the Board of the educational institution or other employer to reinstate the licensed teacher or Instructor, as the case may be.

PART X—*General*

Regulations. **72.**—(1) The Minister may, after consultation with the Council, make regulations generally for the proper carrying out of the purposes and provisions of this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision for or relating to—

- (a) assessments by the Council, on application, of qualifications for registration, licensing or the authorization to teach;

- (b) the circumstances under which assessments under paragraph (a) may be conducted;
- (c) professional practice guidelines;
- (d) the categories of licences for teachers engaged in education, administration or leadership and the appropriate eligibility criteria or standards for each category;
- (e) the fees in respect of any matter under this Act and their payment, recovery or waiver; and
- (f) the circumstances in which licensing fees may be reduced, waived or refunded.

(3) Notwithstanding the penalties specified in section 29(b) of the Interpretation Act, which are applicable to the contravention of any provision of regulations made under this Act, the court may impose such form of alternate sentence as specified in section 10 of the Criminal Justice (Reform) Act, that is to say, that a community service order may be made in respect of the offender in lieu of any penalty specified in section 29(b) of the Interpretation Act.

(4) Regulations made under this section shall be subject to affirmative resolution.

73.—(1) The Council shall make rules—

Rules.

- (a) setting out the procedure for inclusion of particulars or information in the registers or the Roll of Instructors;
- (b) setting out registration, licensing or authorization criteria; and
- (c) otherwise governing the operation of the registers or the Roll of Instructors.

(2) The rules referred to in subsection (1) may, in particular, make provisions for—

- (a) the making of entries in the registers or the Roll of Instructors and alterations to those entries;
- (b) the keeping of different categories of registration, licences or authorization to teach;

- (c) the making of entries provisional on the Council being satisfied that conditions are met;
- (d) the provision of information to the Council by or about persons who are registered, licensed or authorized to teach or who are seeking registration or a licence or to be granted an authorization to teach;
- (e) the circumstances in which persons may be removed from a register or the Roll of Instructors;
- (f) restricting and cancelling entries in a register or the Roll of Instructors;
- (g) circumstances in which a licence may lapse;
- (h) re-registering persons or otherwise restoring entries to the register or Roll of Instructors;
- (i) registration, licences and authorization to teach; and
- (j) such other matters relating to registration, licensing or the grant of an authorization to teach, as the Council thinks fit.

(3) Before making or varying the rules under this section, the Council—

- (a) shall consult with the stakeholders in the education sector, including—
 - (i) teachers or their representatives;
 - (ii) employers of teachers or their representatives; and
 - (iii) parents or their representatives; and
- (b) may consult with such other persons appearing to the Council to have an interest.

(4) The rules made under this section may make provision concerning—

- (a) when licensing fees are payable;
- (b) by whom licensing fees are to be paid; and

- (c) arrangements in accordance with which licensing fees are to be paid.

74.—(1) Any notice under this Act that is authorized or required to be served upon or issued to any person, shall either be—

Service of notices.

- (a) served personally upon the person to whom it is addressed;
- (b) sent to that person by registered post to his last known address; or
- (c) sent to that person by electronic means.

(2) Service by registered post in terms of subsection (1) shall be deemed to have been effected on the tenth day after the date stamped upon the receipt for registration issued by the post office which accepted the notice.

(3) Service by electronic means shall be deemed to have occurred on the next business day after the document is sent to the addressee at an electronic address previously given by the addressee.

(4) A certificate by the person who issued the notice referred to in subsection (1) or by a person authorized on his behalf to do so, stating the time, place and manner of issuing the notice, shall be *prima facie* evidence that the notice was duly served.

75. The Minister may, by order, subject to affirmative resolution, amend—

Power of Minister to amend monetary penalties and First, Second, Third, Fourth and Fifth Schedules.

- (a) any monetary penalty imposed by this Act or regulations made under this Act; and
- (b) the First, Second, Third, Fourth and Fifth Schedules.

76.—(1) This Act shall be reviewed, from time to time, by a Committee of both Houses of Parliament.

Review of Act.

(2) The first review of this Act shall be conducted not later than five years after the appointed day.

77.—(1) The provisions of the enactments specified in the first column of the Sixth Schedule are amended in the manner specified, respectively, in relation to them in the second column of that Schedule.

Amendment of enactments. Sixth Schedule.

(2) Each amendment referred to in subsection (1) shall be construed as one with the enactment specified in relation to that amendment.

Act binds the Crown. **78.** This Act binds the Crown.

PART XI—Transitional Provisions

Interpretation of Part XI. **79.** In sections 81, 82 and 83, “appointed day” means the day appointed for the coming into operation of the provisions related to the registration and licensing of teachers.

Current registration continues. **80.** A person who, immediately before the appointed day, was registered under the Education Act as a trained teacher or an authorized teacher, shall be deemed, from the appointed day, to be registered or enrolled, as the case may be, on the same terms and conditions (including suspension and period of registration) as applied in respect of that person in the appropriate register or Roll under this Act and the Registrar shall, as soon as practicable after the appointed day, enter the required particulars of the person in the appropriate register.

Registration of persons not currently registered at the appointed day. **81.—(1)** This section applies to a person who, immediately before the appointed day—

- (a) held a qualification in teaching approved by the Council for the purposes of this section; and
- (b) was not teaching but has taught at an educational institution at some time before the appointed day, and who is eligible for registration as a teacher, for a licence to practice as a teacher or an authorization to teach, as the Council deems appropriate.

(2) The Council shall, on an application made in the manner approved by the Council, register and licence a person eligible for registration as a teacher and licensing as a teacher or authorization to teach, unless the Council is satisfied that the person is not a fit and proper person to teach.

(3) This Act does not apply to, or in respect of, a person to whom this section applies until, whichever is the earlier of the following—

- (a) the expiration of a period of twelve months or such longer period as may be prescribed, during which the person may apply for registration and licensing as a teacher or the authorization to teach under this section;
- (b) if the person has made an application for registration and licensing as a teacher or the authorization to teach under this section, when that application is dealt with by the Council.

(4) A person to whom this section applies, who is aggrieved by a decision of the Council under this section, may apply to the Tribunal for a review of the decision.

82. Every person who, immediately before the appointed day, was registered under the Education Act as a trained teacher, shall be deemed, from the appointed day, to be registered under this Act.

Licensing of persons registered under the Education Act.

83. An order for disciplinary action made by the Teachers Service Commission or an order upon an appeal made to the Appeal Tribunal under the Education Act, which was in force immediately before the appointed day, shall be deemed to be an order made by the Council or the Tribunal, as the case may be.

Orders made under the Education Act.

84.—(1) Any policy, standard or guideline issued by the existing Council and valid and in force immediately before the appointed day, shall remain valid and in force as if issued by the Council, to the extent that it is consistent with this Act.

Transitional provisions, general.

(2) Every valid or lawful act done by or on behalf of the existing Council shall have effect as if the act was done by or on behalf of the Council, and shall remain in force until the Council invalidates, revokes, cancels or otherwise determines that act.

(3) Where any valid or lawful act was commenced by or on behalf of the existing Council, immediately before the appointed day, the Council may carry on and complete that act.

(4) With effect from the commencement date, any property purchased by, belonging to, vested in or assigned to the existing Council and all interests, rights and easements in respect of the said property

shall, with assignment, belong to and be vested in the Council, subject to all and any trusts and to all debts, liabilities, encumbrances and obligations affecting the same and to any enactment regulating the management, maintenance, control, supervision, of and dealing with, the property.

Transitional provisions relating to employment.

85.—(1) Subject to the provisions of this section, on the appointed day, a person holding an appointment or assigned to an office under the existing Council, shall be transferred to the service of the Council established under this Act, for a period of six months or such longer period as the Council may, in special circumstances, determine.

(2) The Governor-General may, subject to such conditions as the Governor-General may impose, approve the appointment of any officer employed in the service of the Government to any office with the Council or conversely, approve the appointment of any officer employed with the Council to the service of the Government, and while so employed any officer so appointed shall be treated, in relation to any pension, gratuity or other allowance and in relation to other rights as a public officer, as continuing in the service of the Government.

(3) A person who held an office or employment under the existing Council, under a contractual arrangement, shall, from the appointed day be deemed to continue to be employed to the Council established under this Act, on terms and conditions that are no less favourable than those enjoyed by the person in the substantive position of that person, on the appointed day.

FIRST SCHEDULE (Sections 2, 12(2) and
76)

Board of the Jamaica Teaching Council

1. The members of the Board shall include the following members appointed by the Minister— Constitution
of Board.

- (a) the head of the division responsible for school services in the Ministry with responsible for education;
- (b) the Chief Executive Officer of the Child Protection and Family Services;
- (c) the Chief Executive Officer of the Council;
- (d) six registered teachers nominated by an association recognised by the Minister as representing the majority of teachers in Jamaica, five of whom shall be licensed to practise as a teacher under this Act;
- (e) two individuals being representatives of a university that is registered in Jamaica and at least one member shall be a representative of the University of the West Indies nominated by the Vice Chancellor of that university;
- (f) two representatives of an educational training institution that is not a university, who shall be a registered and licensed teachers;
- (g) three nominees of a person who, or body that, the Minister recognizes as representative of religious denominations which own educational institutions in Jamaica, of whom at least one nominee shall be a licensed teacher;
- (h) two nominees of bodies appearing to the Minister to be representative of the interests of parents; and
- (i) two nominees of bodies appearing to the Minister to be representative of the interests of independent schools, of whom one nominee shall be a registered and licensed teacher.
- (j) an attorney-at-law of not less than five years experience who appears to the Minister to be appropriate for appointment;

- (k) a person knowledgeable or experience in finance or public administration and otherwise appropriate for appointment; and
 - (l) a teacher who is registered and licensed and recognized for outstanding performance in education.
- Disqualifica-
tion for
appointment.
2. A person shall not be qualified for appointment as a member of the Board if the person—
- (a) is a member of the Senate or the House of Representatives;
 - (b) is a member of the Council of the Kingston and St. Andrew Municipal Corporation, or of any Municipal Corporation, City Municipality or Town Municipality; or
 - (c) has been convicted of an offence involving dishonesty or moral turpitude.
- Temporary
appoint-
ments.
3. The Ministry may appoint any person to act temporarily in the place of any appointed member of the Board in the case of the absence or inability to act of the appointed member, however, the appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.
- Chairman
and deputy
chairman of
the Board.
- 4.—(1) The Minister shall appoint a member of the Board as chairman of the Board.
- (2) The members of the Board shall appoint a deputy chairman of the Board from among the members of the Board.
- (3) In the case of the chairman of the Board being absent from or unable to act at any meeting, the deputy chairman of the Board shall exercise the functions of the chairman of the Board, in any case in which the deputy chairman of the Board is present at the meeting and is able to so act.
- (4) In the case of the chairman of the Board and the deputy chairman of the Board being absent from or unable to act at any meeting, members of the Board present at the meeting shall elect one of their number to act as chairman of that meeting.
- Leave of
absence.
5. On the application of any member, the Minister may grant leave of absence to the member.
- Tenure of
office.
- 6.—(1) Subject to the provisions of this Schedule, the appointment of every member of the Board shall be evidenced by an instrument in writing.

(2) The instrument shall specify the period of office of the member, which shall not exceed three years and for such additional period thereafter as may be necessary until new appointments are made.

(3) Every member of the Board shall be eligible for re-appointment, however, no member shall be permitted to serve longer than two consecutive terms.

Resignation. 7.—(1) The chairman of the Board may, at any time, resign the office by instrument in writing addressed to the Minister.

(2) The resignation shall take effect as from the date of receipt by the Minister of the instrument.

(3) An member (other than the chairman of the Board) may, at any time, resign his office by instrument, in writing, addressed to the Minister and transmitted through the chairman of the Board.

(4) From the date of the receipt by the Minister of such instrument, the member shall cease to be a member of the Board.

Revocation of appointment. 8. The Minister may revoke the appointment of any member of the Board if the member—

- (a) becomes of unsound mind or becomes permanently unable to perform the functions of the member by reason of ill health;
- (b) becomes bankrupt within the meaning of the Insolvency Act or compounds with, or suspends payment to, the creditors of the member;
- (c) is convicted and sentenced to a term of imprisonment or to death;
- (d) becomes disqualified for appointment under paragraph 2;
- (e) fails to carry out any of the functions conferred or imposed on the member under this Act; or
- (f) fails to attend six consecutive meetings of the Board or any of its committees without excuse or reasonable explanation.

Publication of membership. 9. The names of members of the Board, as first constituted, and every change in the membership of the Board shall be published in the *Gazette*.

Procedure
and meetings.

10.—(1) The Board shall meet at such times as may be necessary or expedient for the transaction of business at such places and on such days and utilizing such modalities as the Board may determine.

(2) The chairman of the Board—

- (a) may, at any time, call a special meeting of the Board; and
- (b) shall call a special meeting within seven days of the receipt of a written request for that purpose addressed to the chairman by any two members of the Board.

(3) The chairman of the Board or, in the case of the absence or inability to act, of the chairman, the deputy chairman of the Board or the person elected in accordance with paragraph 4(4), as the case may be, shall preside at meetings of the Board.

(4) Subject to subparagraph (5), each member of the Board present at a meeting of the Board has one vote on any question arising for decision, however, in addition to an original vote, the chairman of the Board, deputy chairman of the Board or other member presiding at a meeting shall have an original and a casting vote in any case in which the voting is equal.

(5) The quorum for meetings of the Board shall be seven members of which four members shall be registered and licensed teachers.

(6) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—

- (a) notice of the proposed resolution is given to all members of the Board in accordance with procedures determined by the Board; and
- (c) a majority of the members express concurrence with the proposed resolution by letter, facsimile transmission, e-mail or other written communication setting out the terms of the resolution.

(7) The Board shall keep accurate minutes of each meeting of the Board and the minutes shall be confirmed by the chairman of the Board and at least one other member as soon as practicable at a subsequent meeting of the Board.

(8) Subject to the provisions of this Schedule, the Board may regulate the proceedings of the Board.

(9) An act or proceeding of the Board or a committee of the Board shall not be invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

11. There shall be paid from the funds of the Council to the chairman of the Board, the deputy chairman of the Board and the other members of the Board such remuneration (whether by way of honorarium, salaries or fees) and such allowances, as the Minister responsible for the public service may determine. Remuneration.

12.—(1) A member who is in any way directly or indirectly interested in a contract made or proposed to be made by the Board, or in any other matter which falls to be considered by the Board, shall disclose or cause to be disclosed, the nature of the interest of the member at a meeting of the Board and the disclosure shall be recorded in the minutes of the meeting and the member shall not — Disclosure of interest.

- (a) in the case of a contract, take part in any deliberation or decision of the Board with respect to the contract; and
- (b) in the case of any other matter, take part in any deliberation or decision of the Board with respect to the matter if the Board decides that the interest in question might affect prejudicially the member's consideration of the matter,

and shall further excuse themselves from the meeting while the matter is under discussion.

(2) A notice given by a member at a meeting of the Board to the effect that the member is a member of a specific company, firm or other body and is to be regarded as interested in any contract which is made with the Board shall, for the purposes of subparagraph (1), be a sufficient disclosure of the interest of the member in relation to any contract so made.

(3) A member need not attend in person, a meeting of the Board, in order to make a disclosure which the member is required to make under this paragraph, if the member takes reasonable steps to ensure that the disclosure is made by notice which is taken into consideration and read at such a meeting.

Service of documents.

13. Any summons, notice or other document required or authorized to be served upon the Board under the provisions of this Act or any other enactment may, unless there is express provision to the contrary, be served by delivering the summons, notice or other document to the chairman of the Board or secretary, or by sending the summons or other document by registered post addressed to the secretary at the principal office of the Council.

Constitution of committees.

14.—(1) The Board may, with the approval of the Minister, constitute committees for special purposes connected with the functions of the Board and which, in the opinion of the Board, would be better regulated and managed by means of committees.

(2) The Board shall, with the approval of the Minister, constitute standing committees with specify terms of reference and membership, including—

- (a) the Technical Committee, which shall be responsible for the standards and all other matters of a similar professional nature concerning teachers; and
- (b) the Professional Practice and Conduct Committee, which shall be responsible for disciplinary matters relating to teachers.

(3) Subject to the provisions of the Public Bodies Management and Accountability Act, the number of members of a committee constituted under subparagraph (1), the terms of appointment of the members, the quorum of the committee and the areas within which the committees are to exercise authority shall be determined by the Board.

(4) A committee constituted under this paragraph may include persons who are not members of the Board but shall include at least two of the members of the Board.

(5) Notwithstanding paragraph (4), persons who are co-opted as members of a committee but who are not members of the Board shall not comprise more than one-half of the committee.

(6) Except for the Professional Practice and Conduct Committee, committees of the Board shall make recommendations to the full Board for its ratification and decision.

Office of chairman or member not a public office

15. The office of chairman of the Board, deputy chairman of the Board, or member of the Board or any committee of the Board shall not be a public office for the purpose of Part V of the Constitution of Jamaica.

SECOND SCHEDULE (Sections 2 and 76)

Teacher Support Services

1. Health Services
2. Behavioural Services
3. Career Services
4. Laboratory Services
5. Technology Services

THIRD SCHEDULE (Sections 6(2) and 76)

*The Jamaica Teaching Council**Seal and Execution of Documents*

Seal and
execution of
documents.

1.—(1) The seal of the Council shall be—

- (a) kept in the custody of the chairman of the Board or the secretary of the Board; and
- (b) authenticated by the signatures of the chairman of the Board or any other member of the Council authorized to act in that behalf by the Council and the secretary of the Board.

(2) All documents (other than those required by law to be under seal) made by, and all decisions of, the Council, may be signified under the hand of the chairman of the Board, or any member authorized to act in that behalf, or the secretary of the Board.

Financial Provisions, Accounts and Reports

Funds and
resources of
Council.

2.—(1) The funds and resources of the Council shall consist of—

- (a) such sums as may, from time to time, be placed at the disposal of the Council by Parliament;
- (b) all moneys paid to the Council for the licensing of teachers and the grant of any authorization to teach;
- (c) the interest and profits, from time to time, accruing from the investment of the moneys or income of the Council; and
- (d) all other sums and other property which may, in any manner, become payable to or vested in the Council in respect of any matter relating or incidental to its functions.

(2) The expenses of the Council shall be paid out of the funds of the Council.

Power to
invest
money.

3.—(1) Subject to paragraph (2), all moneys of the Council not immediately required to be expended for the purpose of meeting any of its obligations or discharging any of the other functions of the Council, may be invested in such securities or held in such accounts as may be approved by the Minister with responsibility for finance, and the Council may, with the approval of the Minister, sell all or any of such securities.

(2) All funds of the Council which are invested in securities or held in accounts under subparagraph (1), shall be kept, sold or used by the Council for the furtherance or advancement of the functions of the Council under this Act.

4. The moneys collected by the Council for the licensing of teachers and the grant of any authorization to teach shall be held and applied for the purpose of—

Application of fees.

- (a) supporting—
 - (i) the development and implementation of innovations in teaching; and
 - (ii) teachers and education professionals;
- (b) facilitating the acquisition of knowledge by teachers and education professionals;
- (c) professional development and sustainability in teaching; and
- (d) promoting excellence in teaching.

5.—(1) The Council shall keep proper accounts and other records in relation to the business of the Council and shall prepare annually a statement of accounts in accordance with the Public Bodies Management and Accountability Act, being in a form which conforms with established accounting principles.

Accounts and audit.

(2) The accounts of the Council shall be audited annually by an independent auditor appointed by the Council with the approval of the Board in accordance with generally accepted accounting principles promulgated by the Institute of Chartered Accountants of Jamaica, from time to time.

(3) An auditor so appointed shall be a registered public accountant within the meaning of section 2 of the Public Accountancy Act.

(4) The Council shall—

- (a) grant to the auditor appointed under subsection (2), access to all books or other documents, cash and securities of the Council; and
- (b) give to the auditor, upon request, all such information as may be within the knowledge of the Council.

(5) The Auditor-General shall be entitled at all reasonable times to examine the accounts and other records of the Council in relation to the business of the Council.

Annual report and estimates.

6.—(1) The Council shall, as soon as possible after the end of the financial year, but not more than four months thereafter, cause to be made and transmitted to the Minister, an annual report dealing generally with the activities of the Council during the preceding year, which shall include a statement of the accounts of the Council, audited in accordance with paragraph 5.

(2) The Minister shall cause copies of the report referred to in subparagraph (1) together with the auditor's report to be laid on the Table of the House of Representatives and the Senate.

Estimates of income and expenditure.

7. The Council shall, in each financial year, before a date specified by the Minister, but no later than November 30, submit to the Minister, for the approval of the Minister—

- (a) estimates of income and expenditure for the ensuing financial year;
- (b) an operational plan for that year as to -
 - (i) the projects to be promoted or sponsored by the Council; and
 - (ii) the operational framework within which the Council shall carry out the functions of the Council; and
- (c) such other matters as the Minister may require.

Returns, *etc.*

8. The Council shall furnish the Board with such returns, accounts and other information as may be required with respect to the activities of the Council and afford the facilities for verifying the information in such manner and at such time as may reasonably be required.

Recovery of debts.

9. Without prejudice to any other method of recovery, all debts due to the Council may be recovered in a Parish Court as a civil debt, notwithstanding any limitation as to the amount recoverable under the Judicature (Parish Courts) Act.

Protection
of officers
and
employees of
the Council
and members
of the
Board.

10. No suit or other proceedings may be brought or instituted personally against any officer or employee of the Council or any member of the Board or any of the committees of the Board in respect of any lawful act done or omission made in good faith, in the course of carrying out the provisions of this Act.

FOURTH SCHEDULE (Sections 34 and 76)

Fitness to Teach: Further Provisions

- Requirements for determining fit and proper person to teach.
- 1.—(1) In determining whether a person is a fit and proper person to teach, the Council—
- (a) shall take into account the results of the criminal record check of the person, including any offence of which the person may have been convicted, the circumstances of the conviction and the lifestyle and conduct of the person subsequent to the conviction;
 - (b) shall take into account any behaviour of the person that—
 - (i) does not meet the professional standards; or
 - (ii) is not in accordance with a code of professional ethics developed and maintained by the Council;
 - (c) shall take into account whether the person—
 - (i) has had an application for registration as a teacher, licence to practice as a teacher, or authorization to teach in Jamaica or elsewhere, refused;
 - (ii) has had his registration as a teacher or licence or authorization to teach in Jamaica or elsewhere, suspended or revoked;
 - (iii) has been disqualified from registration or the authorization to teach by the Council; or
 - (iv) is, or has been, disqualified from registration as a teacher or from holding a licence by an overseas regulatory authority;
 - (d) shall take into account any conditions currently or previously imposed on the person's certificate of registration or licence or authorization to teach, either in Jamaica or elsewhere; and
 - (e) shall accept the report of a registered medical practitioner, as defined in section 2 of the Medical

Act, whether a person has any physical or mental incapacity or illness that will or is likely to interfere with the practice of teaching.

(2) If, after considering the matters mentioned in subparagraph (1), the Council is not satisfied that a person is a fit and proper person to teach, the Council shall—

- (a) give the person written notice of the reasons why the Council is not satisfied that the person is a fit and proper person to teach; and
- (b) invite the person to appear before the Board, personally, within a reasonable period, as specified in the notice, to respond to those reasons.

(3) A person may be accompanied by an attorney-at-law or a representative of the person's choice when appearing before the Board, who may make representations on behalf of the person to the Board.

(4) The Board shall not decide whether a person is a fit and proper person to teach until—

- (a) the person has appeared before the Board; or
- (b) if the person does not appear before the Board during the period mentioned in subparagraph (2)(b), the end of the period.

2.—(1) The Council may hold proceedings in respect of— Proceedings.

- (a) an investigation of a person's fitness to teach; and
- (b) a hearing carried out under paragraph 1(2)(b).

(2) The regulations shall set out the procedure, the standard of proof and the rules of evidence which are to apply to the proceedings referred to under subparagraph (1).

(3) The regulations may specify any exceptional circumstances in which the proceedings under subparagraph (1) are not to be held in public (for example, proceedings relating to entries in the relevant register or Roll of Instructors that are provisional).

(4) The Council may administer oaths for the purposes of the proceedings under subparagraph (1).

(5) The Council may, on an application by any party to the proceedings under subparagraph (1)—

- (a) order any person to attend the proceedings in order to give oral evidence;
- (b) order any person to disclose documents or other evidence to the Council; and
- (c) authorize the taking of evidence from any person or the examination of any documents or other evidence held by any person.

(6) The Council may not order a person to give any evidence, or to disclose anything, which the person would be entitled to refuse to give or disclose in court proceedings.

FIFTH SCHEDULE (Sections 65 and 76)

Appeal Tribunal

- 1.—(1) Subject to paragraph 3, the Appeal Tribunal shall consist of three members, that is to say—
- Constitution
of the
Tribunal.
- (a) the chairman of the Tribunal, who shall be a retired judge of a superior court of record;
 - (b) a retired teacher; and
 - (c) a representative of professional teachers associations recognized by the Minister and nominated by the associations, in a manner approved by the Minister, who shall be a registered teacher of at least ten years of service to the teaching profession.
- (2) The validity of the proceedings of the Tribunal shall not be affected by any defect in the appointment of a member.
2. The chairman of the Tribunal and other members of the Tribunal shall be appointed by the Minister and shall hold office for such period, not exceeding two years, as the Minister shall determine and shall be eligible for reappointment.
- Appointment
and tenure
of office of
members.
3. A person shall not be qualified for appointment as a member of the Tribunal if the person—
- Disqualification
for
appointment.
- (a) is a member of the Senate or the House of Representatives;
 - (b) is a member of the Council of the Kingston and St. Andrew Municipal Corporation, City Municipality or Town Municipality;
 - (c) is a member, committee member, employee or auditor of the Council or its Board;
 - (d) has been convicted of an offence involving fraud, dishonesty or moral turpitude; or
 - (e) is bankrupt within the meaning of the Insolvency Act.
4. The Minister may, at any time, revoke the appointment of the chairman of the Tribunal or any other member of the Tribunal.
- Revocation
of
appointment.
- 5.—(1) In the case of the absence or inability to act of the chairman of the Tribunal, the Minister may appoint any person to act temporarily as chairman of the Tribunal.
- Temporary
appointments.

(2) In the case of the absence or inability to act of any member of the Tribunal other than the chairman of the Tribunal, the Minister may appoint any person to act temporarily in the place of such member.

Resignation. 6.—(1) Any member of the Tribunal, other than the chairman of the Tribunal may, at any time, resign his office by instrument, in writing, addressed to the Minister and transmitted through the chairman of the Tribunal; and from the date of the receipt by the Minister of the instrument the member shall cease to be a member of the Tribunal.

(2) The chairman of the Tribunal may, at any time, resign his office by instrument, in writing, addressed to the Minister; and the resignation shall take effect as from the date of the receipt of such instrument by the Minister.

Filling of vacancies. 7. If any vacancy occurs in the membership of the Tribunal, the vacancy shall be filled by the appointment of another member who shall, subject to this Schedule, hold office for the remainder of the period for which the previous member was appointed, however, the appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

Publication of membership. 8. The names of the members of the Tribunal as first constituted and every change in the membership of the Tribunal shall be published in the *Gazette*.

Remuneration of members. 9. There shall be paid to the chairman of the Tribunal and the other members of the Tribunal remuneration, whether by way of honorarium, salary or fees and such allowance, as the Minister responsible for the public service may determine.

Voting. 10.—(1) Subject to the provisions of this paragraph, the decision of the Tribunal shall be by a majority of votes of the members present and voting and, in addition to an original vote, the chairman of the Tribunal shall have a casting vote in any case in which the voting is equal.

(2) A member of the Tribunal who has an interest, whether directly or indirectly, in any matter brought before the Tribunal, shall declare the interest, recuse himself or herself from the sittings of the Tribunal at which deliberations or decisions are made in respect of the matter, and shall not take part in any such deliberations.

(3) A declaration made under subparagraph (2) shall be in writing to the chairman or, in the case of a declaration made by the

chairman, to the Minister, and upon being so made shall be deemed to be sufficient for the purposes of this paragraph.

(4) Where a declaration is made to the chairman pursuant to subparagraph (3), the chairman shall notify the Minister of the declaration.

(5) The Minister shall appoint another person to act in place of a recused member at sittings of the Tribunal in relation to the matter concerned.

11. Subject to this Act, the Tribunal shall regulate its own proceedings.

Power to regulate own proceedings.

12. The office of chairman of the Tribunal or member of the Tribunal shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Office of chairman or member of Tribunal not public office.

SIXTH SCHEDULE (Section 37)

Amendments to Other Enactments

Provision —	Amendment —
Education Act	
Section 2 Act	<p>1. Insert next after the definition of “all-age school” the following definition—</p> <p style="padding-left: 40px;">“ “approved home education programme” means an organized set of learning activities, recognized by the Minister with responsibility for education, which are designed to enable a child to develop knowledge, understanding, skills and attitudes, relevant to the child’s individual needs and abilities, in which a parent of the child is primarily responsible for instructing the child, or causing the child to be instructed, other than by distance education, mainly at home, or at a place other than an educational institution;”.</p> <p>2. Delete the definition of “child” and substitute therefor the following—</p> <p style="padding-left: 40px;">“child” means a person who has not attained the age of eighteen years;”.</p> <p>3. Delete the definition of “school” and substitute therefor the following—</p> <p style="padding-left: 40px;">“school”, where used without qualification, means an educational institution for providing primary education (including education at a pre-primary school, and all-age school) or secondary education or both primary and secondary education;”.</p> <p>4. Delete the full stop at the end of the definition of “training centre” and substitute therefor a</p>

semicolon and insert thereafter the following definition—

“Tribunal” means the Appeal Tribunal established by section 65 of the Jamaica Teaching Council Act.”.

Section 5

1. Repeal subsection (3) of the section.
2. Insert next after section 5 the following—

“5A. The Commission shall advise the Minister—

- (a) on matters relating to the appointment of principals;
- (b) on matters relating to the appointment of vice principals and teachers to posts of special responsibility, if requested by the Minister to do so; and
- (c) on any other matter that the Commission may wish to bring to the attention of the Minister or which the Minister may refer to the Commission for the advice of the Commission in the discharge of any of the duties of the Minister under this Act.”.

Section 21(1)

Delete the words “or otherwise” and substitute therefor the words “or through an approved home education programme”.

Section 22(1)

Delete the words “or otherwise” and substitute therefor the words “or through an approved home education programme”.

Part V

Repeal the Part.

Section 43(1)	In paragraph (m), delete the words “and the Tribunal”.
Fourth Schedule	Repeal the Fourth Schedule.
Education Regulations, 1980	
Regulation 45	1. Delete the word “Commission” wherever it appears and substitute therefor, in each case, the words “Jamaica Teaching Council”.
Regulation 46	2. Delete paragraphs (3), (4), (5), (6), (7) and (8). Regulation 46 Repeal this regulation.
Regulation 62	Delete the word “Commission” and substitute therefor the word “Jamaica Teaching Council”.

MEMORANDUM OF OBJECTS AND REASONS

The Teachers Service Commission (TSC) is charged under section 32 of the Education Act, with the responsibility to deal generally with the registration, discipline and assessment of the qualifications of teachers. In addition, the TSC provides advice to the Minister on matters relating to the appointment of principals, vice-principals and teachers with special responsibilities.

The Education Act and the Education Regulations, 1980, do not sufficiently address the needs of the current education environment. A decision has been taken to enact legislation to provide for greater accountability within the teaching profession and for a framework that facilitates increased productivity within the profession, while, at the same time, improving the status of the teaching profession.

In response to the recommendations contained in the report of the Task Force on Educational Reform (2004), there is need for the establishment of the Jamaica Teaching Council (JTC) to deal with, in a more fulsome manner, the functions of the TSC under section 32 of the Education Act. The JTC will be a statutory body charged with the responsibility to regulate the teaching profession and contribute to the overall improvement of the performance standards of teachers and the quality of education provided to students.

Consequently, this Bill seeks, *inter alia* to—

- (a) repeal the functions of the TSC relating to the registration, discipline and assessment of the qualifications of teachers along with certain other provisions of the Education Act;
- (b) repeal certain provisions of the Education Regulations, 1980;
- (c) establish the Jamaica Teaching Council and define its functions; and
- (d) regulate the practice and professional conduct of teachers, and Instructors and other persons to whom this Act applies.

FAYVAL WILLIAMS
Minister of Education and Youth.