

2006

CHAPTER T-7.1

An Act respecting the Teaching Profession and repealing *The Teachers' Federation Act*

TABLE OF CONTENTS

| | | | |
|----|---|----|---|
| | PART I | | |
| | Title and Interpretation | | |
| 1 | Short title | 23 | Public appointee |
| 2 | Interpretation | 24 | Preliminary investigation |
| | PART II | 25 | Hearings |
| | Governance of the Federation | 26 | Attendance at hearings |
| 3 | Continuation | 27 | Legal or other assistance |
| 4 | Powers of the federation | 28 | Hearing procedure |
| 5 | Purposes | 29 | Professional incompetence |
| 6 | Borrowing | 30 | Professional misconduct |
| 7 | Plans' funds | 31 | Mediation |
| 8 | Council | 32 | Not guilty |
| 9 | Responsibilities of council | 33 | Penalty hearings |
| 10 | Executive | 34 | Appeal |
| 11 | Financial records | 35 | Discipline |
| 12 | Committees | | PART VII |
| 13 | Appointment of chief executive officer | | Collective Interests of Teachers |
| | PART III | 36 | Limitation on teacher representation |
| | Bylaws | 37 | Collective interests of teachers |
| 14 | Procedures | | PART VIII |
| 15 | Bylaws | | General |
| 16 | Filing of bylaws | 38 | Immunity |
| | PART IV | 39 | Certain acts do not apply |
| | Regulatory | 40 | Service |
| 17 | Memberships | 41 | Prohibition on entitlement |
| 18 | Deductions from salary | | PART IX |
| | PART V | | Transitional, Repeal and |
| | Pension Plans | | Coming into Force |
| 19 | Pension plans | 42 | Transitional—bylaws |
| 20 | Registration | 43 | Transitional—executive and council |
| | PART VI | 44 | Transitional—plan, pension plan or fund |
| | Discipline | 45 | Transitional—committee |
| 21 | Interpretation and application of Part | 46 | Transitional—inquiry or appeal |
| 22 | Ethics committee and competency committee | 47 | R.S.S. 1978, c.T-7 repealed |
| | | 48 | Coming into force |

(Assented to May 19, 2006)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART I
Title and Interpretation

Short title

1 This Act may be cited as *The Teachers' Federation Act, 2006*.

Interpretation

2 In this Act:

- (a) **“board”** means an employer mentioned in subclauses 2(1)(l)(i) to (v) of *The Teachers Superannuation and Disability Benefits Act*;
- (b) **“conseil scolaire”** means conseil scolaire as defined in *The Education Act, 1995*;
- (c) **“council”** means the council of the federation;
- (d) **“councillor”** means a councillor of the council;
- (e) **“court”** means the Court of Queen's Bench;
- (f) **“department”** means the department over which the minister presides;
- (g) **“employer”** means:
 - (i) a board;
 - (ii) the Saskatchewan School Boards Association;
 - (iii) the federation; and
 - (iv) another employer of a teacher that is approved by the Lieutenant Governor in Council;
- (h) **“executive”** means the executive of the federation as constituted pursuant to section 10;
- (i) **“federation”** means the Saskatchewan Teachers' Federation continued pursuant to section 3;
- (j) **“fund”** means a fund established for a plan or a pension plan pursuant to subsection 7(1);
- (k) **“local association”** means a local association established pursuant to the bylaws of the federation;
- (l) **“member”** means a member of the federation;
- (m) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

- (n) “**participant**” means a person who is required to pay premiums or contributions to a plan and entitled to benefits from the plan;
- (o) “**pension plan**” means a pension plan established by the federation for teachers;
- (p) “**pension plan participant**” means a teacher who is required to contribute to the pension plan pursuant to subsection 19(2);
- (q) “**plan**” means a wellness, income support, employee pension, or retirement benefit plan established by the federation;
- (r) “**school division**” means a school division as defined in *The Education Act, 1995*;
- (s) “**special resolution**” means a resolution passed by a majority of not less than two-thirds of the votes cast by councillors who voted with respect to that resolution;
- (t) “**teacher**” means a person holding a valid teacher’s certificate;
- (u) “**teacher’s certificate**” means a valid Saskatchewan teacher’s certificate issued pursuant to regulations made pursuant to *The Education Act, 1995* or any former Education Act.

PART II Governance of the Federation

Continuation

3 The Saskatchewan Teachers’ Federation is continued as a corporation.

Powers of the federation

4(1) The federation has all the powers necessary to carry out the purposes of the federation mentioned in section 5 and to exercise the rights and authorities set out in this Act.

(2) The federation has the capacity to carry on its activities, conduct its affairs and exercise its powers in any jurisdiction outside Saskatchewan to the extent and in the manner that the laws of that jurisdiction permit.

Purposes

5 The purposes of the federation are:

- (a) to represent and support teachers;
- (b) to carry on activities, in a manner consistent with the public interest, that improve:
 - (i) the quality of education; and
 - (ii) the delivery of educational support for and by teachers;
- (c) to provide, primarily for the benefit of its members or former members, plans and pension plans;
- (d) to promote the cause of education;
- (e) to raise the status of the teaching profession;

- (f) to promote and safeguard the interests of teachers and secure conditions that support the best possible professional service;
- (g) to influence public opinion regarding educational affairs;
- (h) to secure for teachers a greater influence in educational affairs;
- (i) to provide advice, assistance and legal protection to members in their professional duties and relationships;
- (j) to establish and administer plans and pension plans;
- (k) to pay benefits from the plans and pension plans;
- (l) to act as the trustee for any fund established pursuant to this Act;
- (m) to represent teachers in collective bargaining in accordance with *The Education Act, 1995*; and
- (n) to establish and maintain standards of professional ethics and competency for teachers in accordance with Part VI.

Borrowing

- 6(1) The federation may acquire, hold, mortgage, lease, sell or dispose of real and personal property for its corporate purposes.
- (2) The federation may authorize a fund, other than a fund established pursuant to subsection 7(1) for a pension plan, to:
 - (a) borrow money to pay an obligation of that fund;
 - (b) issue, reissue, sell or pledge debt obligations of that fund; or
 - (c) mortgage or create a security interest in all or any property of the fund to secure any debt obligation of that fund.
- (3) The federation may for its corporate purposes:
 - (a) borrow money;
 - (b) issue, reissue, sell or pledge debt obligations;
 - (c) mortgage or create a security interest in all or any of its property to secure any debt obligation; or
 - (d) give a guarantee to secure an obligation of the federation.

Plans' funds

- 7(1) The federation shall establish a separate fund for any plan or pension plan it establishes.
- (2) Each fund shall be kept separate from any other fund.
- (3) No person shall:
 - (a) transfer money from one fund to another fund;
 - (b) use money from one fund to pay the obligations of another fund; or
 - (c) use money from one fund in any way or for any purpose other than for the plan or pension plan for which the fund was established.

- (4) The federation may assess and collect premiums and contributions from participants for any plan established.
- (5) The federation shall act as the trustee for the assets of any fund established pursuant to subsection (1).
- (6) The federation shall hold the assets of each fund in trust solely for the benefit of the participants of the plan or the pension plan participants of the pension plan for which the fund was established.
- (7) The federation shall invest the assets of funds it holds pursuant to this section in securities authorized for investment in accordance with the *Pension Benefits Standards Regulations, 1985* (Canada), S.O.R./87-19.
- (8) The executive may appoint an administrative board for a plan or a pension plan and delegate to that administrative board the management of that plan or pension plan.

Council

- 8(1) The council consists of the number of councillors prescribed in the bylaws elected by the local associations in accordance with this Act and the bylaws.
- (2) Each councillor holds office for the term prescribed in the bylaws.
- (3) The council shall meet annually.
- (4) A special meeting of the council shall be held on the written request of the number of councillors specified in the bylaws or at the call of the president for the transaction of the business that is specified in the request or call.
- (5) Two-thirds of the councillors holding office shall be a quorum for meetings of the council.
- (6) Any matter before the council shall be decided by a majority vote of those present and voting except matters pertaining to bylaws, which shall be decided by a special resolution.
- (7) A councillor shall:
 - (a) act on the council as the representative of the local association that elected him or her as long as he or she remains a member of that local association; and
 - (b) carry out the policies of the federation in the local association of which he or she is a member.
- (8) Councillors are entitled to remuneration and reimbursement for expenses as prescribed in the bylaws.

Responsibilities of council

- 9(1) The council shall:
 - (a) adopt policies for the guidance of the federation;
 - (b) approve the establishment of any plan or pension plan by the federation;

- (c) approve the premiums and contributions, recommended by the executive, to be paid by participants for each plan and the rate of contribution to be paid by pension plan participants to the pension plan;
 - (d) elect members of the executive in accordance with the bylaws;
 - (e) subject to the bylaws, elect from their number a president and vice-president for the federation as members of the executive;
 - (f) approve an annual budget for the federation;
 - (g) determine the location of the head office in Saskatchewan;
 - (h) set the fiscal year of the federation;
 - (i) approve the membership fees, recommended by the executive, to be paid by members to the federation; and
 - (j) perform any other duties prescribed by this Act or the bylaws.
- (2) No financial matter shall be approved by the council unless the executive recommended its approval.

Executive

- 10(1)** The executive shall manage and regulate the activities of the federation.
- (2) The executive shall consist of not less than eight councillors and not more than 12 councillors, as determined by the bylaws.
 - (3) The executive shall be elected by the council in accordance with the bylaws.
 - (4) Each member of the executive holds office for the term specified in the bylaws or as may be specified at the time of election.
 - (5) If there is a vacancy on the executive, the remaining members of the executive may appoint another councillor to fill that vacancy.
 - (6) No person shall be elected or appointed to the executive unless that person consents to the nomination or appointment.
 - (7) A vacancy in the membership of the executive does not impair the power of the remaining members to act.
 - (8) Members of the executive are entitled to remuneration and reimbursement for expenses as prescribed in the bylaws.
 - (9) If a member of the executive has his or her teacher's certificate suspended, the member is suspended from the executive for the same period.
 - (10) If a member of the executive has his or her teacher's certificate cancelled, the member ceases to be a member of the executive on the day the teacher's certificate is cancelled.
 - (11) The executive may delegate any of its powers or responsibilities or the federation's powers or responsibilities to any committee, the chief executive officer or an employee of the federation.

Financial records

11(1) The executive shall ensure that the following are satisfactorily prepared and maintained:

- (a) accounting records for the federation and for each fund;
 - (b) records of minutes and resolutions of the council, the executive, any committee and any administrative board.
- (2) The executive shall ensure that annual financial statements are prepared for the federation and for any fund.
- (3) The executive shall annually appoint an auditor or firm of auditors to audit the accounts and financial statements of the federation and any fund.
- (4) The executive shall send a copy of the audited financial statements to each councillor at least 21 days before the annual meeting of the council.

Committees

12(1) The executive may establish any committee of the executive that the executive considers necessary.

- (2) The majority of the members of any committee established pursuant to subsection (1) must be members of the executive.
- (3) Members of any committee established pursuant to subsection (1) are entitled to remuneration and reimbursement for expenses as prescribed in the bylaws.

Appointment of chief executive officer

13 The executive shall appoint a chief executive officer for the federation.

PART III Bylaws

Procedures

14(1) The council may, by special resolution, make bylaws for any purpose set out in section 15.

- (2) A bylaw becomes effective on the day it is passed, unless a later date is specified in the bylaw.
- (3) The chief executive officer shall forward copies of proposed bylaws to all councillors at least 14 days before the date of the meeting at which the bylaws are to be presented.
- (4) The chief executive officer shall:
 - (a) notify each member of each bylaw made pursuant to subsection (1) within 150 days after the bylaw is made, varied or revoked; and
 - (b) cause each bylaw made pursuant to subsection (1) to be published in the Gazette.

Bylaws

15 Subject to this Act, bylaws may be made pursuant to section 14 for the following purposes:

- (a) prescribing the number and the terms of office of members of the executive;
- (b) governing the procedures for the election of members of the executive;
- (c) prescribing the qualifications required to be a member of the executive;
- (d) respecting the holding and procedures of meetings of the executive;
- (e) establishing local associations;
- (f) prescribing the eligibility criteria for members of local associations;
- (g) prescribing the officers of the local associations and governing the procedures for the election of those officers;
- (h) prescribing the duties of officers of local associations;
- (i) prescribing the number of councillors and the terms of office of members of council;
- (j) governing the procedures for the election of members of council;
- (k) prescribing the qualifications required to be a member of council;
- (l) prescribing the duties of members of council;
- (m) respecting the holding and procedures of meetings of council;
- (n) prescribing offices of the federation and the duties of each office;
- (o) respecting the calling and holding of meetings of the executive;
- (p) providing for a code of ethics for teachers;
- (q) prescribing procedures for the review, investigation, hearing and disposition of complaints alleging that a member is guilty of professional misconduct, conduct not becoming to a teacher or professional incompetence;
- (r) prescribing for the ethics committee and the competency committee:
 - (i) subject to subsections 22(1) and (2), the number of persons to be on each committee;
 - (ii) the terms of members of each committee;
 - (iii) the qualifications required to be a member of each committee;
 - (iv) the quorum for each committee; and
 - (v) any other matter relating to the performance by each committee of its duties in the carrying on of its activities;

- (s) establishing any committees that are considered necessary, other than committees established pursuant to section 12, and prescribing the manner of appointment of committee members;
- (t) providing for any other thing that is necessary for the effective administration of the federation;
- (u) establishing categories of membership and prescribing the rights and privileges of each category;
- (v) setting requirements for maintenance of membership;
- (w) governing the procedures for mediation services;
- (x) prescribing any other matters considered necessary for the better carrying out of this Act.

Filing of bylaws

16(1) The federation must file with the Department of Justice two copies, certified by the chief executive officer to be true copies, of any bylaw or amendment made within 30 days after the day it is made.

(2) Failure to file any bylaw or amendment, as required by subsection (1), invalidates the bylaw or amendment on the 31st day after it was made.

(3) A copy of each bylaw and amendment filed pursuant to subsection (1) is to be laid before the Assembly by the Minister of Justice pursuant to *The Tabling of Documents Act, 1991*.

(4) If a bylaw or amendment laid before the Assembly is found by the Assembly to be beyond the powers delegated by the Legislature or to be in any way prejudicial to the public interest, the bylaw or amendment ceases to have effect and is deemed to have been revoked.

(5) If it appears from any Votes and Proceedings of the Legislative Assembly that a bylaw or amendment has ceased to have effect, the Clerk of the Legislative Assembly shall forward two copies of those Votes and Proceedings to the Deputy Minister of Justice and at the same time advise him or her that the copies are forwarded pursuant to this subsection.

(6) If the Deputy Minister of Justice receives copies of the Votes and Proceedings pursuant to subsection (5), the Deputy Minister of Justice shall retain one copy and forward the other copy to the federation and at the same time advise the federation that the copy is forwarded pursuant to this subsection.

PART IV
Regulatory

Memberships

17(1) Any person employed as a teacher in a school organized, continued or receiving or eligible to receive grants pursuant to *The Education Act, 1995* must, as a condition of his or her employment, be a member of the federation.

(2) Subject to the approval of the executive and any terms and conditions that the executive may consider necessary, the following persons are eligible for associate membership in the federation:

(a) members of the Saskatchewan League of Educational Administrators, Directors and Superintendents;

(b) teachers who are members of the faculties of The University of Regina, the University of Saskatchewan and any affiliated or federated colleges of those universities;

(c) persons who are declared by the executive to be eligible to become associate members of the federation; and

(d) teachers employed by other employers approved by the Lieutenant Governor in Council.

(3) Subject to the approval of the executive and to any terms and conditions that the executive may consider necessary, the following persons are eligible for membership in the federation:

(a) students enrolled in a teacher education program;

(b) teachers working in schools operated in Saskatchewan pursuant to the *Indian Act* (Canada);

(c) any teachers to whom subsections (1) and (2) do not apply.

Deductions from salary

18(1) Every employer must deduct from any salary payable to a member in each month from September to June any amount determined pursuant to the bylaws for membership fees.

(2) Every employer must deduct from any salary payable to a participant in each month from September to June any contributions and premiums for any plan.

(3) Every employer must remit to the federation the amounts deducted pursuant to subsections (1) and (2) on a monthly basis not later than 10 days after the last day of each month.

(4) If a change is made in any of the amounts to be deducted pursuant to subsection (1) or (2), the chief executive officer must notify every employer by registered mail of the change.

PART V
Pension Plans

Pension plans

19(1) A pension plan must provide for the retirement benefits approved by the council.

(2) Every teacher shall contribute to the pension plan at the rate approved by council who, after June 30, 1991:

(a) is employed:

(i) as a teacher by a board;

(ii) by another employer in a position requiring the professional qualifications and experience of a teacher; or

(iii) by a board of education as defined in *The Education Act, 1995* or by the conseil scolaire and who has been designated as not being a teacher by The Educational Relations Board, but whose position requires the professional qualifications and experience of a teacher; and

(b) is not required to make contributions to the Teachers' Superannuation Fund pursuant to *The Teachers Superannuation and Disability Benefits Act*.

(3) The pension plan may allow pension plan participants to make voluntary contributions.

(4) Every employer of a pension plan participant must deduct from that person's monthly salary the amount required to be contributed pursuant to subsection (2).

(5) Every employer, except a board, of a pension plan participant must for that pension plan participant contribute to the federation an amount equal to the amount that the Minister of Finance would be required to contribute with respect to that pension plan participant pursuant to subsection 43(1) of *The Teachers Superannuation and Disability Benefits Act* if that pension plan participant was employed by a board.

(6) Any deduction pursuant to subsection (4) or the amount required to be contributed pursuant to subsection (5) must be:

(a) remitted to the federation by the employer and received by the federation not later than 10 days after the last day of each month; and

(b) deposited by the federation into a pension plan fund.

Registration

20(1) The federation shall submit every pension plan for registration pursuant to *The Pension Benefits Act, 1992*.

- (2) Notwithstanding *The Pension Benefits Act, 1992*, a pension plan that has been submitted for registration by the federation may contain provisions that:
- (a) provide for the administration of the pension plan by the federation;
 - (b) limit the financial contributions to the pension plan by the employers or persons on behalf of the employers to the contributions set out in a collective agreement entered into pursuant to *The Education Act, 1995*;
 - (c) permit pension plan participants to make contributions to the pension plan in excess of the contributions made by or on behalf of the employer;
 - (d) authorize the application of the contributions of a pension plan participant mentioned in clause (c) to offset more than 50% of the pension plan participant's immediate or deferred life annuity;
 - (e) provide that the amount of any contribution made by a pension plan participant that exceeds the amount of any contribution made by or on behalf of the employer is not a required contribution for the purposes of *The Pension Benefits Act, 1992*;
 - (f) provide for making contributions each month from September to June inclusive;
 - (g) require the filing of information returns for the purposes of *The Pension Benefits Act, 1992* by the federation and not by employers of pension plan participants; or
 - (h) provide for the investment of any money in a fund in accordance with the *Pension Benefits Standards Regulations, 1985* (Canada), S.O.R./87-19.
- (3) If a pension plan includes any of the provisions mentioned in subsection (2), the Superintendent of Pensions shall not for that reason refuse to register or cancel the registration of a pension plan.
- (4) Notwithstanding *The Pension Benefits Act, 1992*, unless the federation consents to the declaration, the Superintendent of Pensions shall not declare that a pension plan is wound up in whole or in part.
- (5) No amendments to *The Pension Benefits Act, 1992* or regulations made pursuant to that Act that come into force after this section comes into force shall apply to any pension plan before the expiry of any collective agreement then in effect that was entered into pursuant to *The Education Act, 1995*.
- (6) No person shall obtain any right or have any claim against the federation, a pension plan, a fund or any employer participating in a pension plan solely on the grounds that:
- (a) the pension plan contains a provision mentioned in subsection (2) that does not comply with *The Pension Benefits Act, 1992*; or
 - (b) the pension plan does not contain a provision required by *The Pension Benefits Act, 1992* if that provision would conflict with any provision mentioned in subsection (2) that is in the pension plan.

PART VI Discipline

Interpretation and application of Part

21 In this Part:

- (a) **“committee”** means the ethics committee established pursuant to subsection 22(1) or the competency committee established pursuant to subsection 22(2);
- (b) **“hearing”** means a hearing held pursuant to section 25;
- (c) **“member”** includes the following persons:
 - (i) a teacher who is a member of the federation at the time that any proceeding pursuant to this Part is instituted against that teacher; or
 - (ii) a person who:
 - (A) at the time of the occurrence of the matter under investigation or complaint, was a teacher and a member of the federation; and
 - (B) on the date that any committee proceeding is instituted pursuant to this Part against that person, was a teacher and a member of the federation within the two years before the date the proceeding was instituted.

Ethics committee and competency committee

- 22(1) The ethics committee is established consisting of at least five persons appointed by the council.
- (2) The competency committee is established consisting of at least five persons appointed by the council.
- (3) No person can be a member of both the ethics committee and the competency committee at the same time.
- (4) If there is a vacancy on the ethics committee or the competency committee, the executive may appoint a person to fill the vacancy until the next meeting of council.
- (5) The failure to make an appointment pursuant to subsection (4) or the absence or inability to act of a person appointed pursuant to subsection (1) or (2) does not impair the ability of the other members of the committees to act.
- (6) Subject to this Act and the bylaws, each committee may make rules regulating its business and procedure.

Public appointee

- 23(1) The Lieutenant Governor in Council may appoint one person who resides in Saskatchewan as a member of the ethics committee.
- (2) If the Lieutenant Governor in Council appoints a person as a member of the ethics committee, the term of office of that person is not to exceed three years.
- (3) A person appointed pursuant to subsection (1) holds office until that person's successor is appointed and is eligible for reappointment, but is not eligible to hold office for more than two consecutive terms.

(4) A person appointed pursuant to subsection (1) ceases to hold office if that person ceases to be a resident of Saskatchewan.

(5) A member of the ethics committee appointed pursuant to this section may exercise rights and serve as a member of the committee to the same extent as other members of the ethics committee.

(6) The failure to make an appointment pursuant to subsection (1) or the absence or inability to act of the person appointed pursuant to subsection (1) does not impair the ability of the other members of the ethics committee to act.

(7) The minister shall remunerate and reimburse for expenses the person appointed pursuant to subsection (1) at the rate determined by the Lieutenant Governor in Council.

Preliminary investigation

24 The executive may on its own motion, and upon the written complaint of any three members of the federation shall, make a preliminary investigation into the conduct of any member and may order a hearing by one of the committees.

Hearings

25(1) The ethics committee shall, on a written order of the executive or on its own motion, conduct a hearing to inquire into any complaint and determine whether or not a member is guilty of professional misconduct or conduct not becoming to a teacher.

(2) The competency committee shall, on a written order of the executive or on its own motion, conduct a hearing to inquire into any complaint and determine whether or not a member is guilty of carrying out the duties and responsibilities of a teacher in an incompetent manner.

Attendance at hearings

26(1) A committee that conducts a hearing shall serve notice on the member whose conduct or competence is the subject of the hearing at least 14 days before a hearing, setting out the allegations made against that member and specifying the date, time and place of the hearing.

(2) If the member whose conduct or competence is the subject of the hearing fails to attend the hearing, the committee, on proof of service of the notice mentioned in subsection (1), may proceed with the hearing in his or her absence.

(3) If the member whose conduct or competence is the subject of the hearing does not appear and either the ethics committee or the competency committee determines to proceed in the member's absence, and in any other case with the consent in writing of that member, the committee may, either as to the whole case or as to any particular fact, proceed and act on evidence by affidavit.

Legal or other assistance

27(1) A committee may employ, at the expense of the federation, any legal or other assistance that it considers necessary.

(2) The member whose conduct or competence is the subject of the hearing, at his or her own expense, may be represented by counsel.

Hearing procedure

- 28(1) The committee shall hear the complaint and shall determine whether or not the member is guilty of professional misconduct or conduct not becoming to a teacher or professional incompetence, as the case may be, notwithstanding that the determination of a question of fact may be involved, and the committee need not refer any question to a court for adjudication.
- (2) The committee may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.
- (3) The testimony of witnesses is to be under oath or affirmation administered by the chairperson of the committee.
- (4) At a hearing, there is to be full right:
- (a) to examine, cross-examine and re-examine all witnesses; and
 - (b) to present evidence in defence and reply.
- (5) On application and payment of the appropriate fee, the local registrar of the court at any judicial centre shall issue writs of *subpoena ad testificandum* or *subpoena duces tecum* to all or any of the following:
- (a) a member whose conduct or competence is the subject of a hearing pursuant to this Act;
 - (b) a member of the committee;
 - (c) the chief executive officer of the federation.
- (6) If a writ issued pursuant to subsection (5) is disobeyed, the proceedings and penalties are those applicable in civil cases in the court.
- (7) If, during the course of a hearing, the evidence shows that the member whose conduct or competence is the subject of the hearing may be guilty of a charge different from or in addition to any charge specified in the original complaint, the committee shall notify the member of that fact.
- (8) If the committee proposes to amend, add to or substitute the charge in the complaint, the committee shall adjourn the hearing for any period that the committee considers sufficient to give the member an opportunity to prepare a defence to the amended complaint, unless the member consents to continue the hearing.
- (9) The persons, if any, who made the written complaint mentioned in section 24:
- (a) are to be advised orally or in writing by the chief executive officer of the date, time and place of the hearing; and
 - (b) subject to subsection (11), are entitled to attend the hearing.
- (10) Subject to subsection (11), the committee shall conduct all hearings in public.
- (11) A committee may exclude members of the public and the persons, if any, who made the complaint from any part of the hearing if the committee is of the opinion that evidence brought in the presence of the persons to be excluded will unduly violate the privacy of a person other than the member whose conduct or competence is the subject of the hearing.

(12) The committee shall report to the executive its findings together with any penalty recommendations in a written report, signed by the majority of committee members conducting the hearing.

(13) The committee shall also provide to the executive minutes of the hearing proceedings, the evidence adduced and any exhibits produced or copies of exhibits.

Professional incompetence

29 Professional incompetence is a question of fact, but the display by a member of a lack of knowledge, skill or judgment or a disregard for the welfare of a member of the public served by the profession of a nature or to an extent that demonstrates that the member is unfit to:

- (a) continue in the practice of the profession; or
- (b) provide one or more services ordinarily provided as a part of the practice of the profession;

is professional incompetence within the meaning of this Act.

Professional misconduct

30 Without limiting the generality of subsection 25(1), the following conduct is deemed to be professional misconduct or conduct not becoming to a teacher:

- (a) wilfully taking, because of animosity or for personal advantage, any steps to secure the dismissal of another teacher;
- (b) wilfully circulating false reports, derogatory to any fellow teacher or to any other person directly associated with education in Saskatchewan;
- (c) maliciously, carelessly, irresponsibly or otherwise than in fulfilment of official duties, criticizing the work of a fellow teacher in such a way as to undermine the confidence of the public and pupils;
- (d) publishing or circulating any false or mischievous statement or entering into any collusive arrangement intended to circumvent or nullify any of the Acts of the Legislature pertaining to teachers or schools or the regulations of the department;
- (e) being convicted of an offence pursuant to section 151, 152, 153, 155, 159, 160, 163.1, 168, 170, 171, 172.1, 271, 272 or 273 of the *Criminal Code*.

Mediation

31 If a complaint has been referred to mediation and the mediation is not successful, the executive may order a hearing by the ethics committee or the competency committee.

Not guilty

32 If the executive receives a report from a committee that found the member who was the subject of the hearing not guilty of professional incompetence or professional misconduct or conduct not becoming to a teacher, the chief executive officer shall:

- (a) send a copy of the complaint and the report of the committee to the member whose conduct or competence was the subject of the hearing; and
- (b) send a copy of the complaint and the report of the committee to the complainants, if any.

Penalty hearings

33(1) If the executive receives a report from a committee that the member who was the subject of the hearing was found guilty of professional incompetence or professional misconduct or conduct not becoming to a teacher, the executive shall hold a penalty hearing with respect to the member who was the subject of the complaint.

(2) The chief executive officer shall, at least 14 days before the executive holds a penalty hearing:

(a) send a copy of the complaint and the report of the committee to the member whose conduct or competence is the subject of the penalty hearing;

(b) serve notice on that member of the date, time and place of the penalty hearing;

(c) advise that member that he or she may be represented by legal counsel at his or her own expense; and

(d) send notice of the date, time and place of the penalty hearing, a copy of the complaint and the report of the committee to the complainants, if any.

(3) The executive, after holding a penalty hearing, may by order:

(a) reprimand the member;

(b) recommend that the minister suspend or cancel the member's teacher's certificate after the time for an appeal has expired or the appeal taken has been dismissed;

(c) make any additional order or recommendation with respect to any matter incidental to an order or recommendation pursuant to clause (a) or (b); or

(d) do any combination of things described in clauses (a) to (c).

(4) The chief executive officer shall notify the member whose conduct or competence was the subject of the penalty hearing and the complainants, if any, of the decision of the executive and any recommendation or order made by the executive.

Appeal

34(1) A member with respect to whom the executive has made an order pursuant to subsection 33(3) may appeal to the Court of Appeal within 30 days from the day on which the order was issued.

(2) The appeal is to be by motion, notice of which shall be served on the chief executive officer and any other person that the Court of Appeal or a judge of that court may direct.

(3) The record is to consist of a copy of the proceedings before the committee, the evidence taken, the report of the committee and the findings of the executive all certified by the chief executive officer.

- (4) If the chief executive officer receives a request from a member with respect to whom the executive has made an order pursuant to subsection 33(3), the chief executive officer shall provide that person with a certified copy of all proceedings, reports, findings and papers on which the committee or the executive acted in making the order being appealed, on payment of the amount charged by local registrars of the court for copies of documents.
- (5) The Court of Appeal, on the hearing of the appeal, may:
- (a) affirm or reverse the order of the executive; or
 - (b) order a new hearing.

Discipline

- 35(1)** If the executive makes an order recommending to the minister that a member's teacher's certificate be suspended or cancelled, the federation shall:
- (a) within 14 days after the day the order is made, provide the minister with a copy of the original complaint, the report of the committee and the order of the executive; and
 - (b) provide the minister with any other related information that the minister may require.
- (2) If the minister is of the opinion that the order is unjust or contrary to the public interest, the minister may request the executive to reconsider the case and its findings.

PART VII
Collective Interests of Teachers

Limitation on teacher representation

36 Unless previously authorized by the executive, no local association shall make representations to the government or any member of the government, or bargain with the department with respect to matters affecting the teaching profession or involving a change in educational policy.

Collective interests of teachers

- 37(1)** In this section, "**collective interests of teachers**" means the collective interests of teachers with respect to:
- (a) collective bargaining for teachers conducted pursuant to *The Education Act, 1995*;
 - (b) the terms and conditions of employment pursuant to section 209 of *The Education Act, 1995*; and
 - (c) a member bargaining on his or her own behalf or acting, on matters affecting other members, in a manner inconsistent with the bylaws made pursuant to this section.
- (2) The council may make by special resolution any bylaws that are not inconsistent with this Act for the purposes of this section.

- (3) Engaging in conduct contrary to the collective interests of teachers is a question of fact.
- (4) Subject to subsection (5), the executive may make a preliminary investigation into the facts regarding a complaint that a member is guilty of conduct contrary to the collective interests of teachers.
- (5) If any three members of the federation make complaints, in writing, alleging that a member is guilty of conduct contrary to the collective interests of teachers, the executive shall make a preliminary investigation into the facts alleged.
- (6) If the executive is of the opinion that further action on the complaint is warranted, the executive may refer the complaint to a committee established by the executive in accordance with the bylaws.
- (7) The committee must:
 - (a) conduct a hearing;
 - (b) grant the member who is the subject of the hearing an opportunity to be heard; and
 - (c) report its finding to the executive and the member who is the subject of the hearing.
- (8) If the committee finds that a member's conduct is contrary to the collective interests of teachers, the executive, after giving the member an opportunity to be heard, may by order:
 - (a) reprimand the member;
 - (b) require the member to pay a fine to the federation; or
 - (c) reprimand the member and require the member to pay a fine to the federation.
- (9) A fine levied pursuant to clause (8)(b) or (c) may not exceed the net earnings of the member during the period in which the member was engaged in conduct contrary to the collective interests of teachers.
- (10) Any fine required to be paid is to be recoverable as a debt due and owing to the federation by the member and may be recovered in the same manner as a debt owed pursuant to a contract in a court of competent jurisdiction.
- (11) Nothing in this section is to be interpreted as restricting a member's freedom of expression or association.

PART VIII
General

Immunity

38 No action or proceeding lies or shall be commenced against any member of the executive, the council, a committee, or an administrative board or any chief executive officer, employee or agent of the federation if that person is acting pursuant to the authority of this Act or the bylaws, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the bylaws or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the bylaws.

Certain acts do not apply

39(1) *The Trust and Loan Corporations Act, 1997* does not apply to the federation in its role as trustee or administrator of a pension plan or fund.

(2) *The Saskatchewan Insurance Act* does not apply to the federation in its role as trustee or administrator of a pension plan or fund with respect to payment from the fund of:

- (a) a superannuation allowance based on age and years of service to a teacher on retirement; or
- (b) a benefit on the death of a teacher or superannuate:
 - (i) to the estate of the teacher or superannuate in a lump sum amount calculated based on contributions plus earnings; or
 - (ii) through periodic payments to a person, as required by the pension plan.

Service

40(1) A notice or other document required or permitted to be served pursuant to this Act or a bylaw may be served:

- (a) by personal service:
 - (i) in the case of an individual, on that individual; or
 - (ii) in the case of the federation, the executive or a committee, on the chief executive officer or an employee of the federation; or
- (b) by registered mail addressed to:
 - (i) in the case of a member or a member as described in clause 21(c), the last residential address of the intended recipient known to the federation; or
 - (ii) in the case of the federation, the executive or a committee, the chief executive officer of the federation.

(2) A notice or document sent by registered mail is deemed to have been served seven days after the date of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the notice or document or received it at a later date.

Prohibition on entitlement

41 No member or former member is entitled to share in the revenues or property of the federation.

PART IX

Transitional, Repeal and Coming into Force

Transitional - bylaws

42 Every bylaw of the federation that is in force on the day before the coming into force of this Act continues in force to the extent that the bylaw is not inconsistent with this Act.

Transitional - executive and council

43 A person who was a member of the executive or council on the day before this Act comes into force continues as a member of the executive or council until the earlier of:

- (a) the date on which members of the executive or council are elected pursuant to this Act; and
- (b) the date on which the member dies, resigns or otherwise ceases to be a member of the executive or council.

Transitional - plan, pension plan or fund

44 Any plan, pension plan or fund established by the federation before the coming into force of this Act is continued as a plan, pension plan or fund pursuant to this Act.

Transitional - committee

45 Any committee of the federation established before the coming into force of this Act continues as a committee of the federation to the extent that it is not inconsistent with this Act.

Transitional - inquiry or appeal

46 Any inquiry or appeal commenced pursuant to *The Teachers' Federation Act* continues to the extent that it is not inconsistent with this Act.

R.S.S. 1978, c.T-7 repealed

47 *The Teachers' Federation Act* is repealed.

Coming into force

48 This Act comes into force on proclamation.

