SCOTTISH STATUTORY INSTRUMENTS

2012 No. 86

EDUCATION

The General Teaching Council for Scotland (Legal Assessor) Rules 2012

Made - - - -	*13th March 2012*
Laid before the Scottish Parliament	*15th March 2012*
Coming into force - -	*2nd April 2012*

The Lord President of the Court of Session, under and by virtue of the powers conferred upon him by paragraph 3(4) and (5) of Schedule 4 to the Public Services Reform (General Teaching Council for Scotland) Order 2011(**a**) and all other powers enabling him in that behalf, hereby enacts and declares:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the General Teaching Council for Scotland (Legal Assessor) Rules 2012 and come into force on 2nd April 2012.

(2) In these Rules—

"the Order" means the Public Services Reform (General Teaching Council for Scotland) Order 2011;

"the GTCS" means the General Teaching Council for Scotland as referred to in article 4 of the Order;

"Investigating Panel" means the panel of individuals appointed by GTCS to consider complaints in accordance with the General Teaching Council for Scotland Fitness to Teach and Appeals Rules 2012(**b**);

"legal assessor" means an assessor appointed under paragraph 3 of Schedule 4 to the Order;

"party" includes a person representing a party;

"the register" means the register of teachers kept by the GTCS in accordance with the Order and "registered" and "registration" are to be construed accordingly.

Functions of a legal assessor

2.—(1) This rule applies to any proceedings before the GTCS in respect of—

(a) an investigation of an individual's fitness to teach, at any procedural stage following consideration by an Investigating Panel;

(b) a review of a decision—

(**a**) S.S.I. 2011/215.
(**b**) These Rules are made by the General Teaching Council for Scotland under paragraphs 1 and 2 of Schedule 4 to the Order.

(i) to impose conditions on the registration of an individual in relation to such an investigation;

(ii) to record reprimands on the entry in the register of an individual whose fitness to teach has been investigated;

(iii) to remove from the register under article 18(2)(b) of the Order any individual whose entry in the register is provisional.

(2) An investigation referred to in paragraph (1)(a) includes any investigation of—

(a) registered teachers;

(b) provisionally registered teachers; and

(c) applicants for registration.

(3) The legal assessor shall advise the GTCS on any questions of law arising in the proceedings in accordance with the provisions of this rule.

(4) The legal assessor shall during the proceedings give the GTCS such advice as is necessary to enable the proceedings to be conducted in accordance with rules made by the GTCS under paragraphs 1 or 2 of Schedule 4 to the Order.

(5) The legal assessor may give the advice mentioned in paragraphs (3) and (4)—

(a) while present at any hearing in the proceedings or from a separate location from the venue for such a hearing;

(b) at any time when in the course of proceedings the GTCS is considering any matter or question in private.

(6) Any advice given by the legal assessor under this rule may include advice relating to the drafting of written decisions and the structuring of reasons.

(7) Any advice given by the legal assessor under this rule (other than advice as mentioned in paragraph 6) shall—

(a) be given in such manner as to be audible to all parties to the proceedings;

(b) subject to paragraph (8), if given while the GTCS is deliberating in private, be intimated to the parties as soon as reasonably practicable and before any decision is pronounced.

(8) If the legal assessor considers that it is necessary for any advice given by him or her to the GTCS in private to be intimated to the parties immediately, the parties shall be recalled forthwith and the advice intimated to them.

(9) Every party shall be given the opportunity to comment on any advice (other than advice as mentioned in paragraph 6) given to the GTCS by the legal assessor under this rule.

(10) The legal assessor may, following any comments made under paragraph (9), give such further advice to the GTCS as he or she considers necessary.

(11) If the GTCS does not accept any advice given by the legal assessor under this rule, a statement to that effect together with the reasons for not accepting it shall be made on behalf of the GTCS either during the proceedings or when it gives its decision, if that is given later.

Revocation

3. The Teaching Council (Scotland) (Legal Assessor) Rules 2006(**a**) are revoked.

A.C. HAMILTON
Lord President

Edinburgh
13th March 2012

(**a**) S.S.I. 2006/455.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision in relation to the functions of legal assessors in the proceedings of the General Teaching Council for Scotland. The existing Rules relating to that matter are revoked.

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