

2006 No. 455

EDUCATION

The Teaching Council (Scotland) (Legal Assessor) Rules 2006

Made - - - - *2nd September 2006*

Coming into force - - *22nd September 2006*

The Lord President of the Court of Session, under and by virtue of the powers conferred upon him by sections 10(6) and 12(7) of and paragraph 3 of Schedule 2 to the Teaching Council (Scotland) Act 1965(a), hereby enacts and declares:

1.—(1) These Rules may be cited as the Teaching Council (Scotland) (Legal Assessor) Rules 2006 and shall come into force on 22nd September 2006.

(2) In these Rules—

“the Act” means the Teaching Council (Scotland) Act 1965;

“the Council” means the General Teaching Council for Scotland established under section 1(1) of the Act;

“legal assessor” means an assessor appointed under section 12(7) of or paragraph 3(1) of Schedule 2 to the Act;

“party” includes a person representing a party;

“the Sub-committee” means the Disciplinary Sub-committee set up under section 10 of the Act.

Functions of legal assessor

2.—(1) In any proceedings before—

- (a) the Council in any review under section 12(1A) of the Act; or
- (b) the Sub-Committee,

the legal assessor shall advise the Council or Sub-Committee, as the case may be, on any questions of law arising in those proceedings in accordance with the following provisions of this rule.

(2) The legal assessor shall during any such proceedings give the Council or Sub-committee such advice as is necessary to enable the proceedings to be conducted in accordance with rules made by the Council under section 12(5) of and paragraph 2 of Schedule 2 to the Act.

(3) Where in any such proceedings the stage is reached when the Council or Sub-Committee proposes to retire to consider its decision in private, the legal assessor shall, immediately before the Council or Sub-Committee, as the case may be, retires, advise it on all questions of law to which it should have regard in its deliberations.

(a) 1965 c.19; amended by the Standards in Scotland’s Schools etc. Act 2000 (asp 6).

(4) The legal assessor may give the advice mentioned in paragraphs (2) and (3) at any time when in the course of proceedings the Council or the Sub-committee, as the case may be, is considering any matter or question in private.

(5) Any advice given by the legal assessor to the Council or the Sub-committee under this rule shall—

- (a) be given in the presence of and in such manner as to be audible to all parties to the proceedings;
- (b) subject to paragraph (6), if given while the Council or the Sub-committee, as the case may be, is deliberating in private, be intimated to the parties as soon as reasonably practicable and before any decision is pronounced.

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

(7) Every party shall be given the opportunity to comment on any advice given to the Council or the Sub-committee by the legal assessor under this rule.

(8) The legal assessor may, following any comments made under paragraph (7) give such further advice to the Council or Sub-committee as he considers necessary.

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

3. The Teaching Council (Scotland) (Disciplinary Committee Assessor) Rules 1981(a) are revoked.

A C HAMILTON
Lord President

Edinburgh,
2nd September 2006

(a) S.I. 1981/721.

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 Disciplinary Sub-committee of the General Teaching Council for Scotland “the Council” and of the Council in relation to a review under section 12(1A) of the Teaching Council (Scotland) Act 1965. The existing rules are revoked.

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