

STANDARDS IN SCOTLAND'S SCHOOLS ETC. ACT 2000

EXPLANATORY NOTES

THE ACT

The General Teaching Council

General

Section 51 – Appeals

128. This section amends section 12 of the 1965 Act, which provides for appeals.
129. In any case where a decision of the DSC or the PCC results in permanent removal of a person's name from the register (subject only to his reapplying), or a person's application for registration or re-registration is refused, the person will have a right of appeal to the Court of Session. This replicates existing provisions.
130. Under the 1965 Act, applications for registration from teachers trained outwith Scotland are considered by the GTC's committee on Exceptional Admission to the Register (EAR). Applicants refused registration can at the moment appeal to the Council against a decision of the EAR committee. New section 12(1) provides a right of appeal to the Court of Session against a decision of the EAR committee. This is partly for consistency with the other cases mentioned above where a person's name is removed from the register or his application is refused. It is also considered appropriate in light of the requirements of Article 6(1) of the European Convention on Human Rights (ECHR). Article 6(1) requires that, in the determination of his civil rights and obligations, a person is entitled to a fair and public hearing by an independent and impartial tribunal established by law. This includes determination of rights to enter or remain in a profession.
131. As in the existing provisions, appeals to the Court of Session will be governed by rules made by the Court by Act of Sederunt. The appeal period is 28 days in these cases.
132. New section 12 (1A) provides a right of appeal to the Council in the case of:
- decisions by the DSC in relation to:
 - conditional registration;
 - a reprimand being recorded against the person's name in the register;
 - decisions by the PCC in relation to:
 - refusal of an application for variation or revocation of the condition specified in a conditional registration order;
 - decisions by the PCC, DSC or ISC in relation to:
 - temporary suspension.

*These notes relate to the Standards in Scotland's Schools etc.
Act 2000 (asp 6) which received Royal Assent on 14 July 2000*

133. Rules made by the GTC to govern the proceedings of appeals to the Council will require to be approved by the Lord President of the Court of Session. The rules will provide for time limits for appeal in these cases. By virtue of substituted section 12(4), decisions made by the PCC, DSC or ISC will take effect only on expiry of the relevant time limit or, if an appeal is made, on dismissal or withdrawal of the appeal.