

## CHAPTER 12

### ASSESSORS

#### Summoning of assessors

**12.1.**-(1) Subject to the following provisions of this Chapter, the court may, at its own instance or on the motion of a party, summon to its assistance a qualified person to sit with the court to act as an assessor at a proof or hearing in any cause.

(2) Where the court considers summoning an assessor at its own instance, it shall hear the parties on the matter before making a decision.

(3) Where an interlocutor is pronounced summoning an assessor, the court shall remit to the Deputy Principal Clerk to arrange for the attendance of the assessor selected.

#### Consignation of money for fees of assessors

**12.2.** An interlocutor summoning an assessor other than in a cause under the Patents Act 1977 (a) shall only be pronounced subject to the condition that there shall be consigned into court such sum as the court thinks fit to meet the fees and expenses of the assessor by-

- (a) the party enrolling the motion; or
- (b) where an assessor is summoned by the court at its own instance, the pursuer or petitioner, as the case may be, unless the court otherwise directs.

#### Motions to summon assessors

**12.3.** A party seeking to summon an assessor shall-

- (a) enrol a motion for that purpose not less than 28 days before the diet of the proof or hearing at which the presence of an assessor is sought; and
- (b) give written intimation of the motion to every other party not less than 7 days before it is enrolled.

#### Copies of pleadings for use of assessors

**12.4.**-(1) Where an assessor is summoned by the court at its own instance, the pursuer or petitioner, as the case may be, shall lodge in process such copy of the closed record or other pleadings in the cause as the court directs for the use of the assessor.

(2) Where a motion under rule 12.3 (motions to summon assessors) has been granted, the party who enrolled the motion shall lodge in process a copy of the closed record or other pleadings in the cause for the use of the assessor.

#### Selection of assessors

**12.5.**-(1) Subject to paragraph (2), an assessor shall be selected by agreement between the parties, failing which, by the court on the motion of a party.

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(a) 1977 c.37.

(2) A nautical assessor shall be selected from the list of persons-

- (a) approved by the Lord President;
- (b) kept by the Principal Clerk; and
- (c) published as the Lord President shall direct.

(3) The list of nautical assessors published under paragraph (2) shall be in force for a period of 3 years; but a person on that list may be approved in any subsequent list.

#### **Number of assessors**

**12.6.**-(1) For a proof or hearing in the Outer House, only one assessor shall be summoned.

(2) In the case of-

- (a) a proof or hearing ordered by a Division of the Inner House to be taken by one of the judges of the Inner House, or
- (b) a hearing in the Inner House,

the number of assessors to be summoned shall be such number as the court thinks fit.

#### **Skilled witnesses where assessors summoned**

**12.7.**-(1) In a cause arising out of a collision at sea where the court is assisted by a nautical assessor at a proof, no party may lead a skilled witness on nautical matters.

(2) In a cause other than one to which paragraph (1) applies, where the court is assisted by an assessor at a proof, a party may not lead evidence from more than one skilled witness on any matter within the special qualifications of the assessor.

(3) Where a question arises at a proof in relation to the application of paragraph (2), the decision of the Lord Ordinary shall be final and not subject to review.

(4) In a cause to which paragraph (2) applies, the court may, on the motion of a party-

- (a) enrolled not less than 14 days before the diet of proof, and
- (b) of which written intimation has been given to every other party not less than 7 days before the motion is enrolled,

on cause shown, allow evidence to be led from a greater number of skilled witnesses.

#### **Note of questions submitted to assessors**

**12.8.** The judge who presides at a proof or hearing to which an assessor is summoned shall make a note of each question submitted to the assessor and of the answer; and the note shall be lodged in process.

#### **Remuneration of assessors**

**12.9.** The remuneration to be paid to an assessor, other than in a cause under the Patents Act 1977, shall, unless the court otherwise directs, be treated as expenses in the cause.