

CHAPTER 66

APPLICATIONS UNDER THE EVIDENCE (PROCEEDINGS IN OTHER JURISDICTIONS) ACT 1975

Interpretation of this Chapter

66.1. In this Chapter-

"the Act of 1975" means the Evidence (Proceedings in Other Jurisdictions) Act 1975(a);
"civil proceedings" has the meaning assigned in section 9(1) of the Act of 1975;
"requesting court" has the meaning assigned in section 9(1) of the Act of 1975.

Disapplication of certain rules to this Chapter

66.2. The following rules shall not apply to an application to which this Chapter applies:-

rule 14.5 (first order in petitions),
rule 14.6 (period of notice for lodging answers),
rule 14.7 (intimation and service of petitions),
rule 14.9 (unopposed petitions).

Form of applications under the Act of 1975

66.3.-(1) An application under section 1 of the Act of 1975 (application for assistance in obtaining evidence for foreign civil proceedings) shall be made by petition.

(3) Where the letter of request is in a language other than English, there shall be produced with the petition a translation into English certified as correct by the translator; and the certificate shall include his full name, address and qualifications.

Intimation of order and citation

66.4.-(1) Where the court pronounces an interlocutor making an order under section 2(1) of the Act of 1975, the petitioner shall-

- (a) intimate a certified copy of that interlocutor to any witness or haver named in the interlocutor; and
- (b) cite such witness or haver to give evidence.

(2) Rule 35.4(3) and (4) (citation of haver to commission) and rule 35.11(5) and (6) (citation of witness to commission) shall, with the necessary modifications, apply to the citation of a haver or witness, as the case may be, under this rule.

Variation or recall of orders

66.5. A witness or haver who has received intimation and citation under rule 66.4 may apply to the court by motion to have the order under section 2(1) of the Act of 1975 varied or recalled.

(a) 1975 c.34.

66.3(2) omitted by S.I. 1/12/98.

Procedure where witness claims he is not compellable

66.6.-(1) Where a witness or haver who has received intimation and citation under rule 66.4-

- (a) claims that he is not a compellable witness or haver by virtue of section 3(1)(b) of the Act of 1975, and
- (b) is required to give evidence,

the court or any commissioner appointed by the court shall take the evidence and record it in a document separate from the record of any other evidence; and that document shall be kept by the Deputy Principal Clerk.

(2) Where evidence is taken under paragraph (1) of this rule, the court or the commissioner, as the case may be, shall certify the grounds of the claim made under section 3(1)(b) of the Act of 1975.

(3) On certification under paragraph (2), the Deputy Principal Clerk shall send the certificate to the requesting court with a request to it to determine the claim.

(4) On receipt of the determination from the requesting court, the Deputy Principal Clerk shall-

- (a) give written intimation of the determination to the witness or haver who made the claim; and
- (b) in accordance with the determination, send the document in which the evidence is recorded to, as the case may be-
 - (i) the requesting court, or
 - (ii) where the claim is upheld, the witness or haver.

Applications for evidence for proceedings under the European Patent Convention

66.7. Where the court makes an order under section 1 of the Act of 1975 as applied by section 92(1) of the Patents Act 1977 (a), an officer of the European Patent Office may apply by motion-

- (a) to examine any witness; or
- (b) to request the court or commissioner, as the case may be, to put specified questions to any witness.

(a) 1977 c.37.