

CHAPTER 60

APPLICATIONS FOR SUSPENSION, SUSPENSION AND INTERDICT, AND SUSPENSION AND LIBERATION

Application of this Chapter

60.1. Subject to rule 53.1 (conclusions for suspension etc., in action of reduction), this Chapter applies to an application for suspension, suspension and interdict, or suspension and liberation.

Form of applications

60.2.-(1) An application to which this Chapter applies shall be made by petition.

(2) It shall not be necessary in any such petition to make an offer of caution or consignment.

First order

60.3. Where the interlocutor ordering intimation, service or advertisement contains an interim suspension of execution, interim interdict or interim liberation, subject to the finding of caution or the giving of other security or any other conditions, the petition shall not be intimated, served or advertised until such condition has been met.

Further petition following refusal by default

60.4. Where a petition for suspension, suspension and interdict, or suspension and liberation has been refused-

- (a) for failure by the petitioner to-
 - (i) find caution or give other security, or to consign money into court, or
 - (ii) comply with any other condition imposed by the court under rule 60.3 (first order),
or
- (b) on any other ground other than on the merits,

the petitioner may, having paid any expenses in which he was found liable, present another petition for suspension, suspension and interdict, or suspension and liberation, as the case may be.

Appointing petition to Adjustment Roll

60.5.-(1) Any party may, within 7 days after any answers have been lodged, apply by motion for an order appointing the petition and answers to the Adjustment Roll.

(2) Where the court grants a motion under paragraph (1), the petitioner shall, within 14 days after the interlocutor granting the motion-

- (a) send at least four copies of the petition and answers in the form of an open record to the respondent; and
- (b) lodge two copies of the record in process;

and thereafter the cause shall proceed as an action.

Suspension of decree of inferior court or tribunal

60.6.-(1) This rule applies to a petition for the suspension of a decree, order, decision or warrant of whatever nature of an inferior court or tribunal.

(2) The petition shall be served on the clerk of the inferior court or tribunal to which the petition relates.

(3) The Lord Ordinary may pronounce an interlocutor ordering production to the court of any part of the proceedings in the inferior court or tribunal within such period as he thinks fit.

(4) On an interlocutor being pronounced under paragraph (1), the petitioner shall exhibit to the clerk of the inferior court or tribunal a certified copy of the interlocutor; and that clerk shall transmit the documents ordered to be produced to the Deputy Principal Clerk.

(5) Where the petitioner fails to comply with the requirement on him under paragraph (4), the petition shall be refused.

(6) An interlocutor granting suspension shall include a direction to the clerk of court to send a copy of the interlocutor by post to the clerk of the inferior court or tribunal on whom service was executed under paragraph (2).

(7) Where an interlocutor granting suspension is reclaimed against, the reclamer shall give written intimation of that fact to the clerk of the inferior court or tribunal as soon as possible after the reclaiming motion has been marked.

(8) The interlocutor disposing of such a reclaiming motion shall include a direction to the clerk of court to send a copy of that interlocutor to the clerk of the inferior court or tribunal on whom service was executed under paragraph (2).

Interlocutor refusing suspension after proof

60.7. Where the Lord Ordinary, after a proof, refuses a petition for suspension of a decree or decision of an inferior court or tribunal, he shall specify in his interlocutor the relevant facts of the case which he finds to be established and the points of law which he has applied to such facts.