

## **CHAPTER 80**

### **APPLICATIONS IN RESPECT OF QUALIFIED CONVEYANCERS AND EXECUTRY PRACTITIONERS**

#### **Application and interpretation of this Chapter**

**80.1.**-(1) This Chapter applies to an application made under the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(a) in respect of a qualified conveyancer or executry practitioner.

(2) In this Chapter, "the Act of 1990" means the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.

(3) The expressions "the Board", "executry practitioner" and "qualified conveyancer" have the meanings assigned respectively in section 23 of the Act of 1990.

#### **Applications and appeals in respect of qualified conveyancers and executry practitioners**

**80.2.**-(1) Subject to paragraph (4), an application under any of the following provisions of the Act of 1990 shall be made by petition:-

- (a) section 17(6) (application following refusal to register as qualified conveyancer);
- (b) section 18(7) (application following refusal to register as executry practitioner);
- (c) section 20(7) (application for order to require practitioner to comply with direction);
- (d) section 20(11)(b) (application following review of certain decisions of Board following misconduct etc.);
- (e) section 21(5) (application following direction relating to assets);
- (f) section 21(7) (application to secure compliance with direction);
- (g) section 21(10) (application by the Board for interdict); and
- (h) paragraph 20 of Schedule 1 (application for order to produce documents).

(2) An application under section 17(6), 18(7) or 20(11)(b) of the Act of 1990 shall state the date on which the outcome of the review was intimated to the petitioner.

(3) An application under section 21(5) of the Act of 1990 shall state the date on which the direction was received by the petitioner.

(4) An application for leave under section 21(10) of the Act of 1990 shall be made by motion.

#### **Intimation and service in petitions under this Chapter**

**80.3.**-(1) A petition to which this Chapter applies shall be brought before a Division of the Inner House in chambers, and the Division may, without hearing parties and subject to the following paragraphs, make such order for intimation and service as it thinks fit.

(2) In an application under any of the following provisions of the Act of 1990, the court shall order service of the petition on the Board:-

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(a) 1986 c.45.

- (a) section 17(6) (application in respect of review of refusal to register as qualified conveyancer);
- (b) section 18(7) (application following review of refusal to register as executry practitioner);
- (c) section 20(11)(b) (application following review of certain decisions of the Board following misconduct etc.); and
- (d) section 21(5) (application following direction relating to assets).

(3) In an application under any of the following provisions of the Act of 1990, the court shall order service of the petition on the executry practitioner or qualified conveyancer, as the case may be:-

- (a) section 20(7) (application for order to require practitioner to comply with directions);
- (b) section 21(7) (application to secure compliance with direction); and
- (c) paragraph 20 of Schedule 1 (application for order to produce documents).

(4) In an application under section 21(10) of the Act of 1990 (application by the Board for interdict), the court shall order service of the petition on the executry or qualified practitioner, as the case may be, and on the bank, building society or other deposit holder.

#### **Procedure after order for intimation and service**

**80.4.** The court shall, after an order for intimation and service under rule 80.3, proceed on the petition summarily in such manner as it thinks fit.

#### **Remit for further inquiry in petitions under this Chapter**

**80.5.**-(1) In a petition to which this Chapter applies, the court may remit to any person to make further inquiry into the facts, or to take further evidence and to report to the court.

(2) On completion of a report made under paragraph (1), the person to whom the remit was made shall send his report and three copies of it, and a copy of it for each party, to the Deputy Principal Clerk.

(3) On receipt of such a report, the Deputy Principal Clerk shall-

- (a) cause the report to be lodged in process; and
- (b) give written intimation to each party that this has been done and that he may uplift a copy of the report from process.

(4) After the lodging of such a report, any party may apply by motion for an order in respect of the report or for further procedure.