
STATUTORY INSTRUMENTS

1991 No. 1397

Act of Sederunt (Messengers-at-Arms and Sheriff Officers Rules) 1991

PART III

APPLICATIONS FOR COMMISSION

Applications for recommendation for commission as messenger-at-arms

7.—(1) An application by a sheriff officer for recommendation for a commission as a messenger-at-arms under section 77(1) of the Act of 1987 shall be by petition presented to the Outer House of the Court of Session in Form 1 and signed by the petitioner or his solicitor.

(2) There shall be lodged with a petition under paragraph (1) above—

- (a) an inventory of productions;
- (b) a copy of the entry in the Register of Births relating to the petitioner;
- (c) a certificate from the Society that the petitioner has passed such examinations as may be required by the committee of examiners; and
- (d) a certificate from another officer of court stating the period that the petitioner has been in practice as a sheriff officer.

(3) A petition under paragraph (1) above shall not require a process and shall not be intimated on the walls of court, served or advertised.

(4) Where the court grants the prayer of such a petition, the clerk of the Petition Department of the Court of Session shall send a copy of the petition, with interlocutor granting the prayer written on it, to the Lyon Clerk.

(5) Subject to rule 11(10) below, the Lord Lyon shall not issue a commission to a sheriff officer as a messenger-at-arms until the sheriff officer has lodged with the Lyon Clerk—

- (a) a copy letter of receipt of a premium receipt issued by a regional sheriff clerk in terms of rule 10(3) below; and
- (b) such further evidence as the Lord Lyon may require that the Policy in respect of which the premium receipt was issued is in force and applies to the commission of the sheriff officer as a messenger-at-arms.

(6) When the Lord Lyon issues a sheriff officer with a commission as a messenger-at-arms under section 77(1) of the Act of 1987, he shall administer to him the oath or declaration of allegiance to the Sovereign and the oath or declaration *de fidei administratione officii*.

(7) A commission as a messenger-at-arms shall cease to have effect when the holder of it attains the age of 70 years.

(8) Paragraph (7) of this rule shall not apply to a person who was—

- (a) in practice as a messenger-at-arms, and
- (b) aged 70 years or over,

on 30th November 1988.

Application for commission as sheriff officer

8.—(1) An application by a person for a commission as a sheriff officer in a particular sheriffdom or a particular district of a sheriffdom shall be by initial writ in a summary application in Form 2 to the sheriff principal in such sheriff court as the sheriff principal shall direct and shall be signed by the applicant or his solicitor.

(2) There shall be lodged with an initial writ under paragraph (1) of this rule—

- (a) an inventory of productions;
- (b) a copy of the entry in the Register of Births relating to the applicant;
- (c) the certificate required by rule 3(1)(d) above;
- (d) a certificate from the Society to the effect that the applicant has passed such examinations as may be required by the committee of examiners; and
- (e) two references of good character.

(3) An application under paragraph (1) above shall not be served but shall be ordered to be—

- (a) intimated on the walls of every sheriff court in the sheriffdom or district of the sheriffdom for which appointment as a sheriff officer is sought; and
- (b) advertised once in Form 3 in such newspapers circulating in the sheriffdom as the sheriff principal shall require.

(4) A person who intends to object to such an application shall lodge answers to the application with the sheriff clerk within thirty days from the date of such intimation and advertisement.

(5) Where the sheriff principal is satisfied that the applicant is suitably qualified, and is a fit and proper person, to be a sheriff officer, he may grant to the applicant a commission as a sheriff officer in his sheriffdom or a district within that sheriffdom.

(6) Subject to paragraph (7) and rule 11(11) below the sheriff principal shall not issue a commission to a sheriff officer until the sheriff officer has sent to the sheriff principal—

- (a) the Policy required under rule 9 below; or
- (b) evidence satisfactory to the sheriff principal that the sheriff officer is covered by an existing Policy,

together with such further evidence as the sheriff principal may require that the Policy is in force and applies to the sheriff officer.

(7) In the application of paragraph (6) above in a case where the sheriff officer already holds a commission as a sheriff officer, it shall be sufficient for the sheriff officer to send to the sheriff principal—

- (a) a copy letter of receipt of a premium receipt, issued by the regional sheriff clerk under rule 10(3) below; and
- (b) such further evidence as the sheriff principal may require that the Policy in respect of which the premium receipt was issued is in force and applies to the commission of the sheriff officer in his sheriffdom.

(8) When the sheriff principal issues a commission to a sheriff officer he, or a sheriff, shall administer to the sheriff officer the oath or declaration *de fidei administratione officii*.

(9) Where a person intends to apply to be a sheriff officer in more than one sheriffdom, he shall make a summary application under paragraph (1) of this rule in each sheriffdom in which he seeks to be appointed as sheriff officer.

(10) Where a sheriff officer is issued with a further commission as a sheriff officer in a sheriffdom other than the sheriffdom in which he first obtained a commission, he shall intimate a copy of his subsequent commission, certified by the sheriff clerk, to the sheriff principal of each sheriffdom in which he already holds a commission as a sheriff officer.

(11) Where a messenger-at-arms is issued with a further commission as a sheriff officer he shall intimate a copy of that commission, certified by the sheriff clerk, to the Lord Lyon.

(12) A commission as a sheriff officer shall cease to have effect when the holder of it attains the age of 70 years.

(13) Paragraph (12) of this rule shall not apply to a person who was—

- (a) in practice as a sheriff officer, and
- (b) aged 70 years or over,

on 30th November 1988.