

SCHEDULE 1

Paragraph 2

CHANCERY PROCEDURE RULES

Citation

1. These Rules may be cited as the Chancery Procedure Rules.

Interpretation

- 2.—(1) In these Rules, unless the context otherwise requires—

“the Act of 1868” means the Titles to Land Consolidation (Scotland) Act 1868 and a reference to a section of that Act shall be construed as a reference to that section as saved by section 37(1)(d) of the Succession (Scotland) Act 1964(1) and as revived by section 6 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980(2);

“the Act of 1874” means the Conveyancing (Scotland) Act 1874(3) and a reference to a section of that Act shall be construed as a reference to that section as saved by section 37(1)(d) of the Succession (Scotland) Act 1964;

“sheriff clerk of Chancery” includes the sheriff clerk depute of Chancery.

- (2) Where there is a reference to the use of a form in these Rules, that form in the appendix to these Rules, or a form substantially to the same effect, shall be used with such variation as circumstances may require.

Form and subscription of petitions

- 3.—(1) A petition for service or a petition for completion of title under section 10 of the Act of 1874 shall be in one or other of Forms 1 to 12, as the case may be.

- (2) A petition for service or a petition for completion of title under section 10 of the Act of 1874 shall be subscribed by the petitioner or his solicitor.

Publication of petitions

- 4.—(1) Subject to rule 5 (evidence) below, a petition for service or a petition for completion of title under section 10 of the Act of 1874 shall not proceed until the expiry of 21 days from the date of publication.

- (2) Publication of such a petition shall be by display of a copy of the petition on the walls of court.

- (3) Publication of the petition shall be made—

- (a) in the case of a petition for general service—

- (i) in the sheriff court of the sheriff court district in which the deceased died domiciled;
- (ii) where the deceased had at the time of his death no domicile in Scotland or where his domicile is not known, in the sheriff court at Edinburgh; or
- (iii) where the deceased was domiciled in Scotland at the time of his death but had no fixed or known domicile in any sheriff court district, in the sheriff court at Edinburgh; and

(1) 1964 c. 41.
(2) 1980 c. 55.
(3) 1874 c. 94.

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(b) in the case of a petition for special service or a petition for completion of title under section 10 of the Act of 1874, in the sheriff court of the sheriff court district or each such district in which the lands are situated.

(4) Immediately on publication of the petition, the sheriff clerk shall forward to the sheriff clerk of Chancery a certificate in Form 13.

Evidence

5.—(1) Evidence may be received at any time after a petition for service is accepted for publication.

(2) Any written statement (including an affidavit) or report, admissible under section 2(1)(b) of the Civil Evidence (Scotland) Act 1988(4), may be received in evidence without being spoken to by a witness notwithstanding that it was made before the petition for service or a petition for completion of title under section 10 of the Act of 1874, was accepted for publication.

(4) 1988 c. 32.