

CHAPTER 75

APPLICATIONS RELATING TO FINANCIAL SERVICES

PART I

APPLICATIONS UNDER THE FINANCIAL SERVICES ACT 1986

Application and interpretation of this Part

75.1.-(1) This Part applies to an application, under the Financial Services Act 1986(a), mentioned in rule 75.2.

(2) In this Part-

"the Act of 1986" means the Financial Services Act 1986;

"designated agency" has the meaning assigned in section 114(3) of the Act of 1986.

Form of applications under the Act of 1986

75.2.-(1) An application under any of the following provisions of the Act of 1986 shall be made by petition:-

- (a) sections 6, 61, 71(1), 91(4), 104(4), 131(8) and 184(8) (applications by Secretary of State or designated agency for interdict or restitution);
- (b) sections 12, 20, 37(8) and 39(8) (applications by Secretary of State or designated agency for compliance orders);
- (c) section 93 (applications by Secretary of State or designated agency to remove or replace a manager or trustee or to wind up a unit trust scheme); and
- (d) Schedule 11(b)-
 - (i) paragraph 6(1) (applications by the Friendly Societies Commission for compliance orders);
 - (ii) paragraph 7(4) (applications by recognised self regulating organisations to set aside a direction);
 - (iii) paragraph 22 (applications by the Friendly Societies Commission for interdict or to remedy a contravention); and
 - (iv) paragraph 23(1) so far as it modifies section 61 as applied by section 71(1) (applications by the Friendly Societies Commission for interdict or restitution).

(2) Certification by inspectors or the court by virtue of section 94(3)(c), or under section 178(1)(d), of the Act of 1986 shall be made by petition.

Intimation and service

75.3. An order under any of the following provisions of the Act of 1986 shall only be made following intimation and service of the petition to the person against whom the order is to be made:-

- (a) section 6 (interdict and restitution orders);
- (b) section 61 (interdict and restitution orders);
- (c) section 71(1) (orders in respect of breach of prohibition or requirement);
- (d) section 91(4) (orders in respect of contravention of a direction);
- (e) section 104(4) (orders in respect of contravention of a requirement);

(a) 1986 c.60.

(b) Schedule 11 was amended by the Friendly Societies Act 1992 (c.40), Schedule 18.

(c) Section 94(3) was amended by the Companies Act 1989 (c.40), Schedule 24.

(d) Section 178 was amended by the Criminal Justice Act 1993 (c.36), Schedule 5, paragraph 10.

- (f) section 131(8) (orders in respect of contravention of restrictions on promotion of contracts of insurance);
- (g) section 184(8) (orders in respect of contravention of notice of restriction of investment or insurance business); and
- (h) paragraph 22 of Schedule 11 (interdict of regulated friendly society).

Questions relating to interpretation of rules or regulations

75.4. Where a question of the interpretation of any of the rules or regulations referred to in section 61(1)(a) of the Act of 1986 arises in a petition under this rule, the Secretary of State, a designated agency, or any person referred to in section 61(1)(a)(iv) of that Act, and not already a party in the cause, shall be given the opportunity to make representations to the court by lodging answers to the petition.

PART II

APPLICATIONS UNDER THE UNCERTIFICATED SECURITIES REGULATIONS 1995

Interpretation of this Part

75.5. In this Part-
“operator” has the meaning assigned in regulation 3(1) of the Regulations of 1995;
“the Regulations of 1995” means the Uncertificated Securities Regulations 1995(a)

Form of applications under the Regulations of 1995

75.6. An application under regulation 8 (application by Secretary of State for compliance order), or regulation 9 (application by Secretary of State for interdict or restitution), of the Regulations of 1995 shall be made by petition.

Intimation and service

75.7. An order under regulation 9 of the Regulations of 1995 shall only be made following intimation and service of the petition-

- (a) on the person against whom the order is to be made; and
- (b) on the operator.

Questions relating to interpretation of rules of an operator

75.8. Where a question of the interpretation of any of the rules of an operator referred to in regulation 9(1)(a) of the Regulations of 1995 arises in a petition under this rule, the Secretary of State and the operator, if not already parties, shall be given the opportunity to make representations to the court by lodging answers to the petition.