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SUPREME COURT OF JUDICATURE ACT (CHAPTER 322)

RULES OF COURT (AMENDMENT) RULES 2016

In exercise of the powers conferred on us by section 80 of the Supreme Court of Judicature Act and all other powers enabling us under any written law, we, the Rules Committee, make the following Rules:

Citation and commencement

1.—(1) These Rules are the Rules of Court (Amendment) Rules 2016 and, except for rule 8, come into operation on 1 June 2016.

(2) Rule 8 is deemed to have come into operation on 18 November 2015.

Amendment of Order 69A

2. Order 69A, Rule 2 of the Rules of Court (R 5) (called in these Rules the principal Rules) is amended by deleting paragraph (4) and substituting the following paragraph:

“(4) An application under paragraph (1)(d) may not be made more than 3 months after the later of the following dates:

- (a) the date on which the plaintiff received the award;
- (b) if a request is made under Article 33 of the Model Law, the date on which that request is disposed of by the arbitral tribunal.”.

Amendment of Order 70

3. Order 70, Rule 20 of the principal Rules is amended by inserting, immediately after paragraph (7), the following paragraph:

“(7A) To avoid doubt, the Court may, when giving judgment under this Rule, direct the payment of interest, computed from

the date of the writ to the date on which judgment is given, at the rate of 6% per annum or at such other rate as the Chief Justice may from time to time direct.”.

Amendment of Order 89A

4. Order 89A of the principal Rules is amended —

(a) by deleting the word “trafficking” in Rules 2(1)(a) and (b) and 5(1)(a) and (b)(i), (ii) and (iii) and substituting in each case the word “dealing”;

(b) by inserting, immediately after Rule 10, the following Rules:

“Application for substitute property confiscation order (O. 89A, r. 10A)

10A.—(1) An application for a substitute property confiscation order under section 29B(1) must be filed with a supporting affidavit.

(2) The application must be entitled in the matter of the defendant (naming the defendant) and in the matter of the Act, and all subsequent documents in the matter must be so entitled.

(3) The supporting affidavit must state —

(a) that the defendant is convicted, or is by reason of section 26 taken to be convicted, of a drug dealing offence or a serious offence (giving particulars of the offence);

(b) that the defendant had used or intended to use an instrumentality (giving particulars of the instrumentality) for the commission of the offence;

(c) that the instrumentality is not available for forfeiture;

(d) the reason mentioned in section 29B(2)(a), (b) or (c) that the instrumentality is not available for forfeiture (giving particulars of that reason);

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- (e) the value of the instrumentality at the time the offence was committed;
 - (f) full particulars of the realisable property in respect of which the order is sought, and the person or persons who (to the best of the deponent's knowledge) hold the property; and
 - (g) the amount to be recovered under the substitute property confiscation order.

(4) Unless the Court otherwise directs, the supporting affidavit may contain statements of information or belief with the sources of information and grounds of belief.

(5) The application and supporting affidavit must be served, not less than 7 clear days before the date fixed for the hearing of the application, on —

- (a) the defendant;
- (b) any person who has an interest in the realisable property to which the application relates; and
- (c) the receiver, where one has been appointed in the matter.

Application for variation of substitute property confiscation order (O. 89A, r. 10B)

10B.—(1) An application by the Public Prosecutor for a certificate under section 10(4) read with section 29C(1), or for an increase in the amount to be recovered under a substitute property confiscation order under section 10(6) read with section 29C(1), must be filed with a supporting affidavit.

(2) The application and supporting affidavit mentioned in paragraph (1) must be served, not less than 7 clear days before the date fixed for the hearing of the application, on —

- (a) the defendant;

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- (b) any person who has an interest in the realisable property to which the application relates; and
 - (c) the receiver, where one has been appointed in the matter.

(3) An application by the defendant for a certificate under section 22(1) read with section 29C(1), or for a reduction in the amount to be recovered under a substitute property confiscation order under section 22(3) read with section 29C(1), must be filed with a supporting affidavit.

(4) The application and supporting affidavit mentioned in paragraph (3) must be served, not less than 7 clear days before the date fixed for the hearing of the application, on —

- (a) the Public Prosecutor; and
- (b) the receiver, where one has been appointed in the matter.

Application for restraint order or charging order for enabling satisfaction of substitute property confiscation order (O. 89A, r. 10C)

10C.—(1) An application for a restraint order under section 16 read with section 29C(1), or for a charging order under section 17 read with section 29C(1), to either of which may be joined an application for the appointment of a receiver, must be filed with a supporting affidavit.

(2) The application must be entitled in the matter of the defendant (naming the defendant) and in the matter of the Act, and all subsequent documents in the matter must be so entitled.

(3) The supporting affidavit must —

- (a) state such of the following as may be applicable:

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- (i) that proceedings have been instituted against the defendant for a drug dealing offence or a serious offence (giving particulars of the offence), and that those proceedings have not been concluded;
 - (ii) that the defendant has been officially informed under section 23(1) of the Criminal Procedure Code (Cap. 68) that the defendant may be prosecuted for a drug dealing offence or a serious offence (giving particulars of the offence);
 - (iii) that after investigations for a drug dealing offence or a serious offence (giving particulars of the offence) have been commenced against the defendant, the defendant has died or cannot be found or is outside the jurisdiction;
- (b) state all of the following matters:
- (i) that the defendant had used or intended to use an instrumentality (giving particulars of the instrumentality) for the commission of the offence mentioned in sub-paragraph (a)(i), (ii) or (iii) (as the case may be);
 - (ii) that the instrumentality is not available for forfeiture;
 - (iii) the reason mentioned in section 29B(2)(a), (b) or (c) that the instrumentality is not available for forfeiture (giving particulars of that reason);
 - (iv) the value of the instrumentality at the time the offence was committed;

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- (c) contain full particulars of the realisable property in respect of which the order is sought, and the person or persons who (to the best of the deponent's knowledge) hold the property; and
 - (d) where proceedings have not been instituted against the defendant, indicate when it is intended that they should be instituted.

(4) Unless the Court otherwise directs, the supporting affidavit may contain statements of information or belief with the sources of information and grounds of belief.

Application of Rules 7 and 8 to restraint order or charging order for enabling satisfaction of substitute property confiscation order (O. 89A, r. 10D)

10D. To avoid doubt, Rules 7 and 8 apply to —

- (a) a restraint order made under section 16 read with section 29C(1); and
- (b) a charging order made under section 17 read with section 29C(1).

Realisation of property after making of substitute property confiscation order (O. 89A, r. 10E)

10E.—(1) An application for an order under section 19 read with section 29C(1) must be filed with a supporting affidavit.

(2) The supporting affidavit must —

- (a) contain full particulars of the realisable property to which the application relates, and the person or persons who (to the best of the deponent's knowledge) hold the property; and
- (b) exhibit a copy each of the substitute property confiscation order, any certificate issued by the

Court under section 10(2) read with section 29C(1), and any charging order made in the matter.

(3) The application and supporting affidavit must be served, not less than 7 clear days before the date fixed for the hearing of the application, on —

- (a) the defendant;
- (b) any person who has an interest in the realisable property to which the application relates; and
- (c) the receiver, where one has been appointed in the matter.

(4) The Court may, on an application under section 19 read with section 29C(1), exercise the power conferred by section 20(1) read with section 29C(1) to direct the making of payments by the receiver.

Receiver for enabling satisfaction of substitute property confiscation order (O. 89A, r. 10F)

10F.—(1) Subject to this Rule, Order 30, Rules 2 to 6 apply where the Public Trustee is appointed as receiver —

- (a) in pursuance of a charging order made under section 17 read with section 29C(1); or
- (b) under section 16 or 19 read with section 29C(1).

(2) Unless the Court otherwise orders, the Public Trustee —

- (a) need not make an affidavit of fitness; and
- (b) need not give security.

(3) Where any sum remains after the Public Trustee has fully paid the amount payable under the substitute property confiscation order, the Public Trustee must apply for directions as to the distribution of that sum.

(4) The application must be filed with a supporting affidavit, and the application and supporting affidavit must be served, not less than 7 clear days before the date fixed for the hearing of the application, on —

(a) the defendant; and

(b) any other person who held property realised by the receiver.”;

(c) by inserting, immediately after the words “appointed under section 16 or 19” in Rule 12(1), the words “, or under section 16 or 19 read with section 29C(1),”; and

(d) by deleting the word “trafficking” in the Rule heading of Rule 13 and substituting the word “dealing”.

Amendment of Order 89B

5. Order 89B of the principal Rules is amended by deleting the words “the Schedule” wherever they appear in Rules 1(1)(b), 11(1), 12(1), 13(1), 14(1), 15(1) and (5), 16(1), 17(1), (2)(c) and (5), 18(1) and 19 and substituting in each case the words “the Third Schedule”.

Amendment of Order 89E

6. Order 89E of the principal Rules is amended —

(a) by deleting the word “Attorney-General” in Rules 2(6), 3(1), 4(i), 5(1), 7(3)(a) and 9(a) and substituting in each case the words “Public Prosecutor”; and

(b) by deleting the word “Attorney-General” in the Rule heading of Rule 3 and substituting the words “Public Prosecutor”.

Amendment of Order 94

7. Order 94 of the principal Rules is amended —

(a) by inserting, immediately after the definition of “civil penalty action” in Rule 1(1), the following definitions:

“ “Code” means the Criminal Procedure Code (Cap. 68);

“Commercial Affairs Officer” means a Commercial Affairs Officer appointed under section 64 of the Police Force Act (Cap. 235);”;

- (b) by deleting the full-stop at the end of the definition of “contravening person” in Rule 1(1) and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““police officer” means a member of the Singapore Police Force who is deployed in the Commercial Affairs Department of that Force.”;

- (c) by inserting, immediately after paragraph (5) of Rule 8, the following paragraph:

“(5A) The Authority may also be ordered to give discovery of or produce for inspection under Order 24 the following documents which are or have been in the Authority’s possession, custody or power as a result of being furnished to the Authority under section 168C:

- (a) any book voluntarily produced by the defendant or contravening person to a Commercial Affairs Officer or a police officer;
- (b) any book or document that is produced by any person to a Commercial Affairs Officer or a police officer under section 20 of the Code;
- (c) any book or document seized by a Commercial Affairs Officer or a police officer under section 35 of the Code;
- (d) any book or document placed in safe custody by a Commercial Affairs Officer or a police officer under section 78 of the Code;
- (e) any acknowledgment of receipt issued by a Commercial Affairs Officer or a police officer for —
 - (i) any book or document referred to in sub-paragraph (a), (b), (c) or (d);

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- (ii) any other thing produced by any person to a Commercial Affairs Officer or a police officer under section 20 of the Code;
 - (iii) any other property seized by a Commercial Affairs Officer or a police officer under section 35 of the Code; or
 - (iv) any other article placed in safe custody by a Commercial Affairs Officer or a police officer under section 78 of the Code;
- (f) a written order issued by a Commercial Affairs Officer or a police officer under section 20 of the Code;
 - (g) a written order issued to the defendant or contravening person by a Commercial Affairs Officer or a police officer under section 21 of the Code;
 - (h) a statement made by any person to a Commercial Affairs Officer or a police officer under section 22 of the Code;
 - (i) a statement made by the defendant or contravening person to a Commercial Affairs Officer or a police officer under section 23 of the Code;
 - (j) a search warrant issued in respect of the defendant's or contravening person's premises under section 24 of the Code.”;
- (d) by deleting the words “paragraph (5)” in Rule 8(6) and substituting the words “paragraphs (5) and (5A)”;
 - (e) by deleting sub-paragraph (d) of Rule 8(6) and substituting the following sub-paragraphs:
 - “(d) any correspondence between the Authority and the Government or any statutory body;

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- (*da*) any document which is sent by the Authority to the Government or any statutory body, but is not furnished by the Authority under section 168B;
- (*db*) any document which is received by the Authority from the Government or any statutory body, but is not referred to in paragraph (5A);”.

Amendment of Order 110

8. Order 110 of the principal Rules is amended —
- (*a*) by deleting the words “section 130N” in Rules 28(2)(*d*)(ii), 32(*a*) and 37(5)(*b*) and substituting in each case the words “section 36E”; and
- (*b*) by deleting the words “section 130N” in the Rule heading of Rule 32 and substituting the words “section 36E”.

Amendment of Appendix A

9. Appendix A to the principal Rules is amended —
- (*a*) by deleting the words “drug trafficking or criminal conduct” wherever they appear in Form 210 and substituting in each case the words “drug dealing or criminal conduct”; and
- (*b*) by inserting, immediately after the words “an advocate and solicitor of the Supreme Court” in Forms 251 and 252, the words “who is/is not* registered under section 36E of the Legal Profession Act (Cap. 161), and who practises in a Singapore law practice/Joint Law Venture or its constituent foreign law practice/Qualifying Foreign Law Practice/licensed foreign law practice*”.

Saving and transitional provisions

- 10.—(1) Despite rule 4(*a*) —
- (*a*) where an application for a confiscation order under section 4(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) is

made on or after 1 September 2014 but before 1 June 2016, the application and its supporting affidavit may be made, filed and served in accordance with Order 89A, Rule 2(1) of the principal Rules as in force immediately before 1 June 2016; and

- (b) where an application for a restraint order under section 16 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act, or for a charging order under section 17 of that Act, is made on or after 1 September 2014 but before 1 June 2016, the application and its supporting affidavit may be made, filed and served in accordance with Order 89A, Rule 5(1) of the principal Rules as in force immediately before 1 June 2016.

(2) Despite rule 9(a), a warrant under section 34 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act may, if issued on or after 1 September 2014 but before 1 June 2016, be in Form 210 in Appendix A to the principal Rules as in force immediately before 1 June 2016.

*[G.N. Nos. S 299/2014; S 390/2014; S 671/2014;
S 714/2014; S 753/2014; S 850/2014; S 175/2015;
S 278/2015; S 756/2015]*

Made on 20 May 2016.

SUNDARESH MENON
Chief Justice.

V K RAJAH, SC
Attorney-General.

BELINDA ANG SAW EAN
Judge.

TAY YONG KWANG
Judge.

QUENTIN LOH
Judge.

STEVEN CHONG
Judge.

VINODH COOMARASWAMY
Judge.

SEE KEE OON
Presiding Judge of the State Courts.

TAN PUAY BOON
District Judge.

CAVINDER BULL, SC
Advocate and Solicitor.

ANG CHENG HOCK, SC
Advocate and Solicitor.

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(To be presented to Parliament under section 80(6) of the Supreme Court of Judicature Act).