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SUPREME COURT OF JUDICATURE ACT
(CHAPTER 322)

SUPREME COURT OF JUDICATURE (ORGANISED CRIME)
RULES 2016

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In exercise of the powers conferred 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:

PART 1**PRELIMINARY****Citation and commencement**

1. These Rules are the Supreme Court of Judicature (Organised Crime) Rules 2016 and come into operation on 1 June 2016.

Definition

2.—(1) In these Rules, “Act” means the Organised Crime Act 2015 (Act 26 of 2015), and any reference to a section, unless otherwise expressly provided, is a reference to that section in the Act.

(2) An expression used in these Rules which is used in the Act has the same meaning as in the Act.

Purpose

3. The purpose of these Rules is to provide for the procedure for making —

- (a) an application under section 15(1), 21(1), 28(1) to (4), 32(1), 33(1) or 73(1);
- (b) an application in relation to any proceedings under Part 9 of the Act; and
- (c) an appeal under section 34(1), 71(1) or 73(15),

and for matters connected with these applications and appeals.

Application of Rules of Court

4. Subject to the provisions of these Rules, the Rules of Court (R 5) apply to any application, appeal or matter mentioned in rule 3.

Applications for OCPO, FRO, etc.

5. An application under section 15(1), 21(1), 28(1) to (4), 32(1), 33(1) or 73(1), or in relation to any proceedings under Part 9 of the Act, must be made —

- (a) where an action is pending, by summons in the action; and
- (b) in any other case, by originating summons.

PART 2

OCPO AND FRO

Application for OCPO

6.—(1) An application for an OCPO under section 15(1) must be filed with one or more supporting affidavits which, collectively, must contain all the following information:

- (a) the Part 2 offence or the serious offence associated with an organised criminal group, as the case may be, which the

person against whom the application is made is allegedly involved in;

- (b) particulars on how the person is allegedly involved in such offence;
- (c) the risk that the person may be further involved in any such offence;
- (d) the reasons why the OCPO would protect the public by preventing, restricting or disrupting any involvement by the person in any such offence;
- (e) the prohibitions, restrictions or requirements sought to be included in the OCPO;
- (f) if electronic monitoring of the person is sought, the details of the electronic monitoring arrangements.

(2) The application must be entitled in the matter of the person against whom the OCPO is sought, naming the person, and in the matter of the Act, and all subsequent documents in the matter must be so entitled.

(3) The application and all supporting affidavits must be served, not less than 14 days before the date fixed for the hearing of the application, on the person against whom the OCPO is sought.

(4) Where the person against whom the OCPO is sought intends to adduce evidence with reference to the application and supporting affidavits, the person must, not less than 7 days before the date fixed for the hearing of the application —

- (a) file one or more supporting affidavits; and
- (b) serve a copy of the affidavits on the applicant of the OCPO.

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

(6) Before the hearing of the application, the applicant must cause a notice, specifying the day appointed for the hearing, to be published at such times and in such newspapers as the Court may direct.

Application for FRO

7.—(1) An application for an FRO under section 21(1) must be filed with one or more supporting affidavits which, collectively, must contain all the following information:

- (a) the Part 2 offence or the serious offence associated with an organised criminal group, as the case may be, which the person against whom the application is made is allegedly involved in;
- (b) particulars on how the person is allegedly involved in such offence;
- (c) the risk that the person may be further involved in any such offence;
- (d) the reasons why the FRO would protect the public by preventing, restricting or disrupting any involvement by the person in any such offence;
- (e) the requirements of the financial report to be made by the person.

(2) The application must be entitled in the matter of the person against whom the FRO is sought, naming the person, and in the matter of the Act, and all subsequent documents in the matter must be so entitled.

(3) The application and all supporting affidavits must be served, not less than 14 days before the date fixed for the hearing of the application, on the person against whom the FRO is sought.

(4) Where the person against whom the FRO is sought intends to adduce evidence with reference to the application and supporting affidavits, the person must, not less than 7 days before the date fixed for the hearing of the application —

- (a) file one or more supporting affidavits; and
- (b) serve a copy of the affidavits on the applicant of the FRO.

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

(6) Before the hearing of the application, the applicant must cause a notice, specifying the day appointed for the hearing, to be published at such times and in such newspapers as the Court may direct.

Application for variation of OCPO or FRO

8.—(1) An application by the Public Prosecutor to vary an OCPO or FRO under section 32(1) must be filed with one or more supporting affidavits which, collectively, must contain the reasons why the variation of the OCPO or FRO would protect the public by preventing, restricting or disrupting any involvement, by the person who is the subject of the OCPO or FRO, in a Part 2 offence, or a serious offence associated with an organised criminal group.

(2) The application mentioned in paragraph (1) and all supporting affidavits must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

- (a) the person who is the subject of the OCPO or FRO;
- (b) any person who was given an opportunity under section 28(1) to make representations in the proceedings for the making of the OCPO or FRO.

(3) Where a person mentioned in paragraph (2)(a) or (b) intends to adduce evidence with reference to the application and supporting affidavits mentioned in paragraph (1), the person must, not less than 7 days before the date fixed for the hearing of the application —

- (a) file one or more supporting affidavits; and
- (b) serve a copy of the affidavits on the Public Prosecutor.

(4) An application by a person who is the subject of an OCPO or FRO to vary the OCPO or FRO under section 32(1) must be filed with one or more supporting affidavits which, collectively, must contain the details of the material change of circumstances affecting the OCPO or FRO.

(5) The application and all supporting affidavits, mentioned in paragraph (4), must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

- (a) the Public Prosecutor;

(b) any person who was given an opportunity under section 28(1) to make representations in the proceedings for the making of the OCPO or FRO.

(6) Where the Public Prosecutor or person mentioned in paragraph (5)(b) intends to adduce evidence with reference to the application and supporting affidavits mentioned in paragraph (4), the Public Prosecutor or person (as the case may be) must, not less than 7 days before the date fixed for the hearing of the application —

(a) file one or more supporting affidavits; and

(b) serve a copy of the affidavits on the applicant mentioned in paragraph (4).

(7) An application by a person (other than the Public Prosecutor or the person who is the subject of an OCPO or FRO) to vary an OCPO or FRO under section 32(1) must be filed with one or more supporting affidavits which, collectively, must contain all the following information:

(a) particulars on how the person is adversely affected significantly by the OCPO or FRO;

(b) particulars on how condition A in section 32(6) or condition B in section 32(7) (as the case may be) is met.

(8) The application and all supporting affidavits mentioned in paragraph (7) must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

(a) the Public Prosecutor;

(b) the person who is the subject of the OCPO or FRO.

(9) Where the Public Prosecutor or person mentioned in paragraph (8)(b) intends to adduce evidence with reference to the application and supporting affidavits mentioned in paragraph (7), the Public Prosecutor or person (as the case may be) must, not less than 7 days before the date fixed for the hearing of the application —

(a) file one or more supporting affidavits; and

(b) serve a copy of the affidavits on the applicant mentioned in paragraph (7).

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

(11) Before the hearing of the application mentioned in paragraph (1), (4) or (7), the applicant must cause a notice, specifying the day appointed for the hearing, to be published at such times and in such newspapers as the Court may direct.

Application for discharge of OCPO or FRO

9.—(1) An application by the Public Prosecutor to discharge an OCPO or FRO under section 33(1) must be filed with one or more supporting affidavits which, collectively, must contain the reasons why the OCPO or FRO should be discharged.

(2) The application and all supporting affidavits mentioned in paragraph (1) must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

- (a) the person who is the subject of the OCPO or FRO;
- (b) any person who was given an opportunity under section 28(1) to make representations in the proceedings for the making of the OCPO or FRO.

(3) Where a person mentioned in paragraph (2)(a) or (b) intends to adduce evidence with reference to the application and supporting affidavits mentioned in paragraph (1), the person must, not less than 7 days before the date fixed for the hearing of the application —

- (a) file one or more supporting affidavits; and
- (b) serve a copy of the affidavits on the Public Prosecutor.

(4) An application by a person who is the subject of an OCPO or FRO to discharge the OCPO or FRO under section 33(1) must be filed with one or more supporting affidavits which, collectively, must contain the details of the material change of circumstances affecting the OCPO or FRO.

(5) The application and all supporting affidavits mentioned in paragraph (4) must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

(a) the Public Prosecutor;

(b) any person who was given an opportunity under section 28(1) to make representations in the proceedings for the making of the OCPO or FRO.

(6) Where the Public Prosecutor or person mentioned in paragraph (5)(b) intends to adduce evidence with reference to the application and supporting affidavits mentioned in paragraph (4), the Public Prosecutor or person (as the case may be) must, not less than 7 days before the date fixed for the hearing of the application —

(a) file one or more supporting affidavits; and

(b) serve a copy of the affidavits on the applicant mentioned in paragraph (4).

(7) An application by a person (other than the Public Prosecutor or the person who is the subject of an OCPO or FRO) to discharge an OCPO or FRO under section 33(1) must be filed with one or more supporting affidavits which, collectively, must contain all the following information:

(a) particulars on how the person is adversely affected significantly by the OCPO or FRO;

(b) particulars on how condition A in section 33(5) or condition B in section 33(6) (as the case may be) is met.

(8) The application and all supporting affidavits mentioned in paragraph (7) must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

(a) the Public Prosecutor;

(b) the person who is the subject of the OCPO or FRO.

(9) Where the Public Prosecutor or person mentioned in paragraph (8)(b) intends to adduce evidence with reference to the application and supporting affidavits mentioned in paragraph (7), the Public Prosecutor or person (as the case may be) must, not less than 7 days before the date fixed for the hearing of the application —

(a) file one or more supporting affidavits; and

(b) serve a copy of the affidavits on the applicant mentioned in paragraph (7).

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

(11) Before the hearing of the application mentioned in paragraph (1), (4) or (7), the applicant must cause a notice, specifying the day appointed for the hearing, to be published at such times and in such newspapers as the Court may direct.

Application by third parties affected by OCPO or FRO to make representation

10.—(1) An application by a person under section 28(1), (2), (3) or (4) must be filed with one or more supporting affidavits which, collectively, must contain a summary of the representations to be made at the hearing of the application.

(2) The application and all supporting affidavits must be served, before the relevant date, on the following persons:

- (a) the Public Prosecutor;
- (b) the person against whom the application for an OCPO or FRO is sought, or the person who is the subject of the OCPO or FRO, as the case may be.

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

(4) In this rule, the relevant date is as follows:

- (a) for an application by a person under section 28(1), the date a court makes an OCPO or FRO;
- (b) for an application by a person under section 28(2), the date a court varies an OCPO or FRO;
- (c) for an application by a person under section 28(3), the date a court discharges an OCPO or FRO;

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- (d) for an application by a person under section 28(4), the date a court determines an appeal in relation to an OCPO or FRO.

PART 3

CONFISCATION OF BENEFITS

Application for restraint order or charging order

11.—(1) An application for a restraint order or charging order under section 56 (to either of which may be joined an application for the appointment of a receiver) must be filed with one or more supporting affidavits which, collectively, must contain all the following information:

- (a) the grounds for believing that the subject has carried out organised crime activity within the statutory period;
- (b) the full particulars of the realisable property in respect of which the order is sought;
- (c) the person or persons holding such property, as the deponent is, to the best of the deponent's knowledge, able to provide.

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

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

Restraint orders and charging orders

12.—(1) A restraint order may be made subject to conditions and exceptions, including —

- (a) conditions relating to the indemnifying of third parties against expenses incurred in complying with the order; and
- (b) exceptions relating to living expenses and legal expenses of the subject,

but the Public Prosecutor is not required to give an undertaking to abide by any order as to damages sustained by the subject as a result of the restraint order.

- (2) Where a restraint order is made, the Public Prosecutor must —
- (a) unless the Court otherwise provides, serve copies of the order and the supporting affidavit on the subject and on all other named persons restrained by the order; and
 - (b) notify all other persons or bodies affected by the order of its terms.
- (3) Where a charging order is made, the Public Prosecutor must —
- (a) unless the Court otherwise directs, serve copies of the order and the supporting affidavit on —
 - (i) the subject; and
 - (ii) where property to which the order relates is held by another person, that person; and
 - (b) serve a copy of the order on such of the persons or bodies specified in Order 50, Rule 2(1) of the Rules of Court (R 5), as is appropriate, if —
 - (i) the property to which the order relates is an interest in any securities to which Order 50, Rule 1 of the Rules of Court applies; and
 - (ii) a notice has been served by a person under that Rule mentioned in sub-paragraph (i).

Application for discharge or variation of restraint order or charging order

13.—(1) Any person or body on whom a restraint order or a charging order is served or who is notified of such an order may file an application, with one or more supporting affidavits, to discharge or vary the order.

(2) The application and all supporting affidavits must be served, not less than 2 clear days before the date fixed for the hearing of the application, on the following persons:

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- (a) the Public Prosecutor;
 - (b) the subject, where the subject is not the applicant.

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

Further application

14.—(1) Where a restraint order or a charging order has been made, an application may be made by the Public Prosecutor and, where the case is one of urgency, by way of an *ex parte* application —

- (a) to discharge or vary such order;
- (b) to extend the duration of such order;
- (c) for a restraint order or a charging order in respect of other realisable property; or
- (d) for the appointment of a receiver.

(2) The application must be filed with one or more supporting affidavits which must, where the application is for a restraint order or a charging order, contain full particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property, as the deponent is, to the best of the deponent's knowledge, able to provide.

(3) Subject to section 60(2) (if applicable), the application and all supporting affidavits must be served, not less than 2 clear days before the date fixed for the hearing of the application, on the following persons:

- (a) the subject;
- (b) where a receiver has been appointed in the matter, the receiver.

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

(5) Rule 12(2) and (3) apply to the service of restraint orders and charging orders, respectively, made under this rule on persons other than the subject.

Application for confiscation order

15.—(1) An application by the Public Prosecutor for a confiscation order under section 61(1) must be filed with one or more supporting affidavits which, collectively, must contain all the following information:

- (a) the details of the organised crime activity (as defined in section 48) allegedly carried out by the subject within the statutory period;
- (b) the grounds for believing that the subject has derived benefits from the organised crime activity;
- (c) the full particulars of the realisable property in respect of which the order is sought and the person or persons holding such property, as the deponent is, to the best of the deponent's knowledge, able to provide;
- (d) the amount to be recovered under the confiscation order.

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

(3) The application and all supporting affidavits must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

- (a) the subject;
- (b) any person having any interest in the property to which the application relates;
- (c) the receiver, where one has been appointed in the matter.

(4) Where the subject, person or receiver mentioned in paragraph (3) intends to adduce evidence with reference to the application and supporting affidavits, the subject, person or receiver (as the case may be) must, not less than 7 days before the date fixed for the hearing of the application —

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- (a) file one or more supporting affidavits; and
 - (b) serve a copy of the affidavits on the Public Prosecutor.

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

Application for variation of confiscation orders, etc.

16.—(1) An application by the Public Prosecutor for a certificate under section 10(4) of the CDSA (as applied by section 70), or for a variation of a confiscation order under section 10(6) of the CDSA (as applied by section 70) must be filed with one or more supporting affidavits.

(2) The application and all supporting affidavits mentioned in paragraph (1) must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

- (a) the subject;
- (b) any person having any interest in the property to which the application relates;
- (c) the receiver, where one has been appointed in the matter.

(3) Where the subject, person or receiver mentioned in paragraph (2) intends to adduce evidence with reference to the application and supporting affidavits mentioned in paragraph (1), the subject, person or receiver (as the case may be) must, not less than 7 days before the date fixed for the hearing of the application —

- (a) file one or more supporting affidavits; and
- (b) serve a copy of the affidavits on the Public Prosecutor.

(4) An application by the subject for a certificate under section 22(1) of the CDSA (as applied by section 70) or for a variation of a confiscation order under section 22(3) of the CDSA (as applied by section 70) must be filed with one or more supporting affidavits.

(5) The application and all supporting affidavits mentioned in paragraph (4) must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

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

(6) Where the Public Prosecutor or receiver mentioned in paragraph (5)(b) intends to adduce evidence with reference to the application and supporting affidavits mentioned in paragraph (4), the Public Prosecutor or receiver (as the case may be) must, not less than 7 days before the date fixed for the hearing of the application —

- (a) file one or more supporting affidavits; and
- (b) serve a copy of the affidavits on the applicant mentioned in paragraph (4).

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

Application by subject for relief where confiscation order has been made

17.—(1) An application by a subject after a confiscation order has been made for the grant of relief under section 66(1) in relation to the exercise of any realisation power on any property held by the subject must be filed with one or more supporting affidavits.

(2) The application and all supporting affidavits must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

- (a) the Public Prosecutor;
- (b) any person having any interest in the property to which the application relates;
- (c) the receiver, where one has been appointed in the matter.

(3) Where the Public Prosecutor, person or receiver mentioned in paragraph (2) intends to adduce evidence with reference to the application and supporting affidavits, the Public Prosecutor, person or receiver (as the case may be) must, not less than 7 days before the date fixed for the hearing of the application —

- (a) file one or more supporting affidavits; and

(b) serve a copy of the affidavits on the applicant mentioned in paragraph (1).

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

Application by third party for relief where confiscation order has been made

18.—(1) An application by a person for the grant of relief under section 67(1) or (3) in relation to the exercise of any realisation power on any property held by the person must be filed with one or more supporting affidavits.

(2) The application and all supporting affidavits must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

- (a) the Public Prosecutor;
- (b) the subject;
- (c) any person having any interest in the property to which the application relates;
- (d) the receiver, where one has been appointed in the matter.

(3) Where the Public Prosecutor, subject, person or receiver mentioned in paragraph (2) intends to adduce evidence with reference to the application and supporting affidavits, the Public Prosecutor, subject, person or receiver (as the case may be) must, not less than 7 days before the date fixed for the hearing of the application —

- (a) file one or more supporting affidavits; and
- (b) serve a copy of the affidavits on the applicant mentioned in paragraph (1).

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

Realisation of property

19.—(1) An application for an order under section 19 of the CDSA (as applied by section 70) must be filed with one or more supporting affidavits, which must —

- (a) contain full particulars of the realisable property to which the application relates and specify the person or persons holding such property, as the deponent is, to the best of the deponent's knowledge, able to provide; and
- (b) provide copies of the confiscation order, any certificate issued by the Court under section 10(2) of the CDSA (as applied by section 70), and any charging order made in the matter.

(2) The application and all supporting affidavits must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

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

(3) Where the subject, person or receiver mentioned in paragraph (2) intends to adduce evidence with reference to the application and supporting affidavits, the subject, person or receiver (as the case may be) must, not less than 7 days before the date fixed for the hearing of the application —

- (a) file one or more supporting affidavits; and
- (b) serve a copy of the affidavits on the applicant mentioned in paragraph (1).

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

(5) The Court may, on an application under section 19 of the CDSA (as applied by section 70), exercise the power conferred by

section 20(1) of the CDSA (as applied by section 70) to direct the making of payments by the receiver.

Receivers

20.—(1) Subject to this rule, Order 30, Rules 2 to 6 of the Rules of Court (R 5) apply where the Public Trustee is appointed as receiver in pursuance of a charging order or under section 16 or 19 of the CDSA (as applied by section 70).

(2) It is not necessary for an affidavit of fitness to be sworn or for the Public Trustee to give security, unless the Court otherwise orders.

(3) Where the Public Trustee has fully paid the amount payable under the confiscation order and any sums remain in the Public Trustee's hands, the Public Trustee must apply for directions as to the distribution of such sums.

(4) The application must be filed with one or more supporting affidavits.

(5) The application and all supporting affidavits must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

(a) the subject;

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

(6) Where a person mentioned in paragraph (5) intends to adduce evidence with reference to the application and supporting affidavits, the person must, not less than 7 days before the date fixed for the hearing of the application —

(a) file one or more supporting affidavits; and

(b) serve a copy of the affidavits on the Public Trustee.

Compensation

21.—(1) An application by a person for an order for compensation under section 68 must be filed with one or more supporting affidavits stating the grounds of the application.

(2) The application and all supporting affidavits must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

- (a) the person alleged to be in default;
- (b) the Public Prosecutor, if the Public Prosecutor is not the person alleged to be in default.

(3) Where the person mentioned in paragraph (2)(a) or the Public Prosecutor intends to adduce evidence with reference to the application and supporting affidavits, the person or Public Prosecutor (as the case may be) must, not less than 7 days before the date fixed for the hearing of the application —

- (a) file one or more supporting affidavits; and
- (b) serve a copy of the affidavits on the applicant mentioned in paragraph (1).

Disclosure of information

22.—(1) An application for disclosure of information under section 42 of the CDSA (as applied by section 72) must state the nature of the order sought, specifying the grounds of the application and whether material sought to be disclosed is to be disclosed to —

- (a) a receiver appointed under section 16 or 19 of the CDSA (as applied by section 70) or pursuant to a charging order; or
- (b) a law enforcement officer mentioned in section 72(2)(a).

(2) The application and supporting affidavit must be filed and served on the public body —

- (a) not less than 7 days before the date fixed for the hearing of the application; and
- (b) where the public body is a Government department, in accordance with Order 73, Rule 3 of the Rules of Court (R 5).

(3) The supporting affidavit must state the grounds for believing that the conditions in section 42(4) of the CDSA and, if appropriate, section 42(7A)(a) of the CDSA are fulfilled.

Investigation into organised crime activity — discharge and variation of orders

23.—(1) An application for a production order under section 30 of the CDSA (as applied by section 72) must be supported by affidavit and may be made ex parte.

(2) An application under section 34 of the CDSA (as applied by section 72) for a warrant set out in the Schedule may be made ex parte.

(3) Where an order under section 30 of the CDSA (as applied by section 72) has been made, the person required to comply with the order may apply to the Court for the order to be discharged or varied, and on hearing such an application the Court may discharge the order or vary the order as the Court thinks fit.

(4) Subject to paragraph (5), where a person intends to file an application under paragraph (3) for the discharge or variation of an order, the person must, not later than 2 clear days before the filing of the application, serve a copy of the application on —

- (a) the law enforcement officer mentioned in section 72(2)(a) who made the application for the order; or
- (b) another law enforcement officer if the officer mentioned in sub-paragraph (a) is not known or cannot be found.

(5) The Court may direct that paragraph (4) need not be complied with if the Court is satisfied that the person making the application has good reason to seek a discharge or variation of the order as soon as possible, and it is not practicable to comply with that paragraph.

(6) No person may, without the leave of the Court, inspect or take a copy of any document relating to —

- (a) the application mentioned in paragraph (1); or
- (b) an application to vary or discharge such an order under paragraph (3).

Production orders against financial institutions

24.—(1) An application for a production order against a financial institution under section 31(1) of the CDSA (as applied by section 72) must be supported by affidavit and may be made ex parte.

(2) No person may inspect or take a copy of any document relating to such application without the leave of the Court.

PART 4

GENERAL PROVISIONS

Examination orders

25.—(1) An application for an examination order under section 73(1) must be filed with one or more supporting affidavits which, collectively, must contain information on how the conditions specified in section 73(3) are satisfied.

(2) The application mentioned in paragraph (1) must be entitled in the matter of the person against whom the examination order is sought, naming the person, and in the matter of the Act, and all subsequent documents in the matter must be so entitled.

(3) The application and all supporting affidavits mentioned in paragraph (1) must be served, not less than 14 days before the date fixed for the hearing of the application, on the person against whom the order is sought.

(4) Where a person against whom the order is sought intends to adduce evidence with reference to the application and supporting affidavits, the person must, not less than 7 days before the date fixed for the hearing of the application —

(a) file one or more supporting affidavits; and

(b) serve a copy of the affidavits on the applicant of the order.

(5) Where an order under section 73(2) has been made, the person required to comply with the order may file an application with the Court which first made the order, with one or more supporting affidavits, to discharge or vary the order.

(6) The application and all supporting affidavits mentioned in paragraph (5) must be served, not less than 14 days before the date fixed for the hearing of the application, on the following persons:

(a) the law enforcement officer mentioned in section 73(17) who made the application for the order;

(b) another law enforcement officer from the same law enforcement agency as the officer mentioned in sub-paragraph (a), if that officer cannot be found.

(7) Where the law enforcement officer mentioned in paragraph (6)(a) or (b) intends to adduce evidence with reference to the application and supporting affidavits, the law enforcement officer must, not less than 7 days before the date fixed for the hearing of the application —

(a) file one or more supporting affidavits; and

(b) serve a copy of the affidavits on the applicant mentioned in paragraph (5).

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

Discovery and inspection of documents

26.—(1) Subject to the provisions of this rule, Order 24 of the Rules of Court (R 5) (other than Order 24, Rule 18 of the Rules of Court) apply to any application —

(a) under section 15(1), 21(1), 28(1) to (4), 32(1), 33(1) or 73(1);
or

(b) in relation to any proceedings under Part 9 of the Act.

(2) Subject to the provisions of this rule, in any application mentioned in paragraph (1), the Public Prosecutor or a law enforcement officer (as defined in section 2(1)) may be required by the Court to give discovery of documents or produce documents for inspection.

(3) An order of the Court under Order 24 of the Rules of Court is to be construed as not requiring the disclosure of any document the withholding of which is authorised or required under any written law or rule of law on the ground that its disclosure would be injurious to the public interest.

(4) Where an order of the Court made under Order 24 of the Rules of Court directs that a list of documents made in answer to an order for

discovery against the Public Prosecutor or a law enforcement officer be verified by affidavit, the affidavit must be made by such person as the Public Prosecutor may authorise.

(5) The Public Prosecutor or a law enforcement officer may be ordered to give discovery of or produce for inspection under Order 24 of the Rules of Court documents —

- (a) which are in the Public Prosecutor’s or law enforcement officer’s possession or custody as a result of the performance or exercise by the Public Prosecutor or law enforcement officer of the duties or powers of the Public Prosecutor or law enforcement officer, as the case may be; and
- (b) which the Public Prosecutor or law enforcement officer intends to rely on in the application.

(6) In this rule, “document” means a document in any medium and includes a document containing information in digital or electronic form.

Appeals

27. An appeal under section 34(1), 71 or 73(15) to the Court of Appeal must be brought in accordance with the applicable provisions in the Rules of Court (R 5) governing appeals to the Court of Appeal.

THE SCHEDULE

Rule 23(2)

SEARCH WARRANT UNDER SECTION 34
OF THE CORRUPTION, DRUG TRAFFICKING
AND OTHER SERIOUS CRIMES (CONFISCATION
OF BENEFITS) ACT (CHAPTER 65A) AS APPLIED BY
SECTION 72 OF THE ORGANISED CRIME ACT 2015 (ACT 26 OF 2015)[#]

To (authorised officer to be specified)

Whereas information has been laid before me that there is a proceeding or proposed proceeding under Part 9 of the Organised Crime Act 2015, and it has been made to appear to me that the production of the articles specified in the Schedule below is likely to be of substantial value to such proceeding or proposed proceeding:

THE SCHEDULE — *continued*

This is to authorise and require you to search for the said articles specified in the Schedule below in the (describe the premises or part of the premises, to which the search is to be confined), and, if found, to produce the same immediately before the Court at returning this warrant with an endorsement certifying what you have done under it, immediately upon its execution.

THE SCHEDULE

Given under my hand and the seal of the Court, this day of 20 .

(Signature)

Registrar of the Supreme Court

This form requires sealing by the Court.

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.

[SUPCT.RJW.013.0200; AG/LEGIS/SL/322/2015/1 Vol. 4]

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