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No. S 364

**SUPREME COURT OF JUDICATURE ACT
(CHAPTER 322)**

**RULES OF COURT
(AMENDMENT NO. 2)
RULES 2003**

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, hereby make the following Rules:

Citation and commencement

1.—(1) These Rules may be cited as the Rules of Court (Amendment No. 2) Rules 2003 and shall come into operation on 15th August 2003.

(2) Rules 4, 5 and 10 (c) shall apply to appeals in respect of which a notice of appeal is filed on or after 15th August 2003.

(3) Rule 6 shall apply where the entitlement to costs arises on or after 15th August 2003.

(4) Rule 8 shall not apply to any appeal from a decision of the Registrar of Trade Marks that is filed before 15th August 2003.

Amendment of Order 1

2. Order 1, Rule 4 of the Rules of Court (R 5) (referred to in these Rules as the principal Rules) is amended by inserting, immediately before the definition of “bailiff” in paragraph (1), the following definition:

“ “attend” includes the appearance by any person using electronic, mechanical or other means permitted by the Court;”.

Amendment of Order 11

3. Order 11, Rule 1 of the principal Rules is amended by inserting, immediately after the words “Corruption, Drug Trafficking and

Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A)” in paragraph (n), the words “, the Terrorism (Suppression of Financing) Act 2002 (Act 16 of 2002)”.

Amendment of Order 55D

4. Order 55D, Rule 3 of the principal Rules is amended by deleting paragraph (5) and substituting the following paragraph:

“(5) The appellant must at the time of filing the notice of appeal provide security for the respondent’s costs of the appeal in the sum of \$2,000 for Magistrate’s Court actions and \$3,000 for District Court actions or such other sum as may be fixed from time to time by the Chief Justice by —

- (a) depositing the sum in the Registry or with the Accountant-General and obtaining a certificate in Form 114B; or
- (b) procuring an undertaking in Form 114C from his solicitor and filing a certificate in Form 114D.”.

Amendment of Order 57

5. Order 57, Rule 3 of the principal Rules is amended by deleting paragraph (3) and substituting the following paragraph:

“(3) The appellant must at the time of filing the notice of appeal provide security for the respondent’s costs of the appeal in the sum of \$10,000 or such other sum as may be fixed from time to time by the Chief Justice by —

- (a) depositing the sum in the Registry or with the Accountant-General and obtaining a certificate in Form 114B; or
- (b) procuring an undertaking in Form 114C from his solicitor and filing a certificate in Form 114D.”.

Amendment of Order 59

6. Part III of Appendix 2 to Order 59 of the principal Rules is amended —

- (a) by deleting the word “allowed —” in paragraph 3 and substituting the words “allowed the following costs, in addition to disbursements:”;

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- (b) by deleting the words “owing or accruing” in paragraph 4 and substituting the words “due or accruing due”;
 - (c) by deleting the words “the following costs shall be allowed:” in paragraph 4 and substituting the words “there shall be allowed the following costs, in addition to disbursements:”;
 - (d) by inserting, immediately after the words “following costs” in paragraph 5, the words “, in addition to disbursements”; and
 - (e) by deleting the word “allowed —” in paragraph 6 and substituting the words “allowed the following costs, in addition to disbursements:”.

Amendment of Order 84A

7. Order 84A, Rule 3 of the principal Rules is amended —

- (a) by deleting the words “The Women’s Charter (Matrimonial Property Plan) Rules (Chapter 353, R 8)” and substituting the words “Rule 9 of the Women’s Charter (Matrimonial Proceedings) Rules 2003 (S 167/2003)”;
- (b) by deleting the rule heading and substituting the following rule heading:

“Application of rule 9 of Women’s Charter (Matrimonial Proceedings) Rules 2003 (O. 84A, r. 3)”.

Deletion and substitution of Order 87

8. Order 87 of the principal Rules is deleted and the following Order substituted therefor:

“ORDER 87

TRADE MARKS ACT

Interpretation (O. 87, r. 1)

1. In this Order —

“Act” means the Trade Marks Act (Chapter 332);

“registered trade mark” means a trade mark registered under the Act or under the repealed Act;

“Registrar” means the Registrar of Trade Marks;

“repealed Act” means the Trade Marks Act (Chapter 332, 1992 Edition) repealed by the Act.

Applications to the Court (O. 87, r. 2)

2.—(1) Subject to Rule 3, every application to the High Court under the Act or the repealed Act must be begun by originating motion.

(2) Notice of the motion by which any such application is made must be served on the parties and the Registrar.

(3) Where the Registrar refers to the High Court an application made to him under the Act or the repealed Act, then, unless within one month after receiving notification of the decision to refer, the applicant makes to the Court the application, he shall be deemed to have abandoned it.

(4) The period prescribed by paragraph (3) may be extended by the Registrar on the application of any party interested and may be so extended although the application is not made until after the expiration of that period, but the foregoing provision shall not be taken to affect the power of the Court under Order 3, Rule 4 to extend that period.

Proceedings for infringement of registered trade mark: Validity of registration disputed (O. 87, r. 3)

3.—(1) Where in any proceedings a claim is made for relief for infringement of a registered trade mark, the party against whom the claim is made may in his defence put in issue the validity of the registration of that trade mark or may counterclaim for the revocation of the registration or for a declaration that the registration was invalid or for the rectification of the register, or may do any or all of these.

(2) A party to any such proceedings who in his pleading (whether by way of defence or counterclaim) disputes the validity of the registration of a registered trade mark or seeks an order for the revocation of the registration or a declaration that the registration is invalid or an order for the rectification of the register must serve with the pleading particulars of the objection to the validity of the registration on which he relies.

(3) The party referred to in paragraph (2) must serve a copy of his pleading (including a copy of the particulars of objection to the validity of the registration) on the Registrar within 7 days of the filing of the pleading in Court, and the Registrar shall be entitled to take part in the proceedings to the extent permitted by the Court but need not serve a defence or other pleading unless ordered to do so by the Court.

Appeals (O. 87, r. 4)

4.—(1) An appeal to the Court from a decision of the Registrar in any case in which a right of appeal is given by the Act or the repealed Act must be brought by originating motion, and the originating motion is referred to in this Order as “notice of appeal”.

(2) An appeal shall be by way of rehearing and the evidence used on appeal shall be the same as that used before the Registrar and, except with the leave of the Court, no further evidence shall be given.

(3) Every notice of appeal must be filed with the Court within 28 days after the decision of the Registrar.

(4) A notice of appeal may be given in respect of the whole or any specific part of the decision of the Registrar, and must specify the grounds of the appeal and the relief which the appellant seeks.

(5) An appellant shall, within 7 days after filing a notice of appeal, serve a copy thereof on the Registrar and every other party to the proceedings before the Registrar.

(6) The appellant shall, within 14 days after the filing of a notice of appeal, file a bundle of documents consisting of a copy each of —

- (a) a representation of the trade mark which is the subject of the appeal;
- (b) the notice of opposition;
- (c) the application for alteration, revocation or rectification of the trade mark or for a declaration that the trade mark is invalid;

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- (d) the counter-statement;
 - (e) the statutory declarations filed with the Registrar (including any exhibits);
 - (f) the written submissions; and
 - (g) the grounds of decision of the Registrar.

(7) The Registrar shall transmit to the Court any document requested by the Court relating to the matter which is the subject of the appeal.

(8) Except with the leave of the Court, the appellant shall not be entitled on the hearing of the appeal to rely on any ground of appeal or to apply for any relief not specified in the notice of appeal.

(9) Where, under section 12 (5) or 19 (8) of the repealed Act, an applicant for trade mark registration becomes entitled and intends to withdraw his application, which is the subject-matter of an appeal, he must give notice of his intention to the Registrar and to every other party to the appeal within one month after the Court has given leave under section 12 (5) or 19 (8), as the case may be, for further grounds of objection to be taken.

Respondent's notice (O. 87, r. 5)

5.—(1) A respondent who, not having appealed from the decision of the Registrar, desires to contend on the appeal that the decision should be varied, either in any event or in the event of the appeal being allowed in whole or in part, must give notice to that effect, specifying the grounds of that contention and the relief which he seeks from the Court.

(2) A respondent who desires to contend on the appeal that the decision of the Registrar should be affirmed on grounds other than those set out in the grounds of decision must give notice to that effect, specifying the grounds of that contention.

(3) A respondent's notice shall be filed and served on the Registrar, the appellant and every other party to the proceedings before the Registrar within 14 days after the receipt of the notice of appeal by the respondent, or within such further time as the Court may direct.

Hearing of appeal (O. 87, r. 6)

6. The Court shall give to the Registrar, the appellant and every other party to the proceedings before the Registrar not less than 7 days' notice of the date appointed for the hearing of the appeal, unless the Court directs that a shorter period of notice be given.”.

New Order 89E

9. The principal Rules are amended by inserting, immediately after Order 89D, the following Order:

“ORDER 89E

TERRORISM (SUPPRESSION OF
FINANCING) ACT 2002

Interpretation and application (O. 89E, r. 1)

1.—(1) In this Order, “Act” means the Terrorism (Suppression of Financing) Act 2002 (Act 16 of 2002) and any reference to a section shall, unless it is otherwise expressly provided, be construed as a reference to a section in the Act.

(2) Expressions used in this Order which are used in the Act have the same meanings in this Order as in the Act.

(3) An application to which this Order applies must, where an action is pending, be made by summons in the action, and in any other case by originating summons to which appearance is not required.

(4) This Order is not applicable to the Subordinate Courts.

Application for warrant for search and seizure or restraint order (O. 89E, r. 2)

2.—(1) An application for —

(a) a warrant for search and seizure under section 11 (1) (a);
or

(b) a restraint order under section 11 (1) (b),
must be made by ex parte summons.

(2) An application under paragraph (1) shall be entitled in the matter of the owner or person who has control of the property, if known, naming him as the respondent, and in the matter of the Act, and all subsequent documents in the matter shall be so entitled.

(3) An application under paragraph (1) (a) must be supported by an affidavit which must —

(a) state the grounds for believing that the property in respect of which the warrant is sought —

(i) is owned or controlled by or on behalf of a terrorist or terrorist entity; or

(ii) has been or will be used, in whole or in part, to facilitate or carry out a terrorist act; and

(b) state the full particulars and the location of the property in respect of which the warrant is sought and specify the person or persons in possession of such property, as the deponent is, to the best of his knowledge, able to provide.

(4) An application under paragraph (1) (b) must be supported by an affidavit which must —

(a) state the grounds for believing that the property in respect of which the restraint order is sought —

(i) is owned or controlled by the respondent, who is a terrorist or terrorist entity or who is acting on behalf of any terrorist or terrorist entity; or

(ii) has been or will be used, in whole or in part, to facilitate or carry out a terrorist act; and

(b) state whether the property in respect of which the restraint order is sought is believed to be situated in or outside Singapore.

(5) A warrant for search and seizure shall be in Form 199.

(6) Where a restraint order is issued under section 11 (1) (b), the Attorney-General must —

(a) unless the Court otherwise provides, serve copies of the order and the affidavit in support of the summons therefor on the respondent and, where property to

which the order relates is held by another person, on that person; and

- (b) serve a copy of the order on all other persons affected by the order.

Application by Attorney-General to revoke or vary warrant or order (O. 89E, r. 3)

3.—(1) An application by the Attorney-General under section 18 to revoke or vary a warrant or an order made under Part IV of the Act must be made by summons.

(2) An application under paragraph (1) to revoke or vary a warrant issued under section 11 (1) (a) or an order issued under section 11 (1) (b) and an affidavit in support thereof must be filed and served on —

- (a) any person having any interest in the property to which the application relates; and
- (b) any person appointed under section 15 (1),

within 7 days after the date of filing of the application.

Application by interested person to revoke or vary warrant for search and seizure or restraint order or for examination of property (O. 89E, r. 4)

4.—(1) An application under section 19 (1) by any person who has an interest in the property that was seized under a warrant of search and seizure under section 11 (1) (a) or in respect of which a restraint order was issued under section 11 (1) (b) —

- (a) for an order under section 19 (4); or
- (b) for permission to examine the property,

must be made by summons.

(2) An application under paragraph (1) (a) or (b) must be filed and served with an affidavit in support thereof on —

- (a) the Attorney-General;
- (b) any other person having an interest in the property to which the application relates; and
- (c) any person appointed under section 15 (1),

not less than 2 clear days before the date fixed for the hearing of the summons.

Application for continuation of warrant for search and seizure or restraint order (O. 89E, r. 5)

5.—(1) An application by the Attorney-General under section 20 (3) for the continuation of a warrant for search and seizure or restraint order issued under section 11 must be made by summons.

(2) An application under paragraph (1) must be supported by an affidavit which must state the basis for the continuation of the warrant for search and seizure or restraint order.

(3) The application and the affidavit referred to in paragraph (2) must be filed and served on any person having any interest in the property to which the application relates within 7 days after the date of filing of the application.

Application for appointment of manager (O. 89E, r. 6)

6.—(1) Subject to paragraph (2), Order 30, Rules 2 to 6, shall apply where the Public Trustee is appointed under section 15.

(2) It shall not be necessary for an affidavit of fitness to be sworn or for the Public Trustee to give security.

Application for order to destroy property (O. 89E, r. 7)

7.—(1) An application by a person appointed under section 15 for a destruction order under section 16 (2) must be made by summons.

(2) An application under paragraph (1) must be supported by an affidavit which must —

(a) state the full particulars of the property to be destroyed; and

(b) state the reasons for destroying the property.

(3) An application under paragraph (1) and the affidavit in support thereof must be filed and served on —

(a) the Attorney-General; and

(b) any person having a valid interest in the property to be destroyed,

within 7 days after the date of filing of the application.

Application for order of forfeiture (O. 89E, r. 8)

8.—(1) An application for an order of forfeiture under section 21 must be made by summons.

(2) An application under paragraph (1) shall be entitled in the matter of the owner or person who has control of the property, if known, naming him as the respondent, and in the matter of the Act, and all subsequent documents in the matter shall be so entitled.

(3) An application under paragraph (1) must be supported by an affidavit which must —

- (a) state the grounds for believing that —
 - (i) the property is owned or controlled by or on behalf of a terrorist or terrorist entity; or
 - (ii) the property has been or will be used, in whole or in part, to facilitate or carry out a terrorist act;
- (b) state the full particulars of the property in respect of which the order is sought and specify the person or persons in possession of such property; and
- (c) state whether a warrant for search and seizure or restraint order has been issued under section 11 (1) in relation to the property.

(4) An application under paragraph (1) and the affidavit in support thereof must be filed and served on —

- (a) the respondent;
 - (b) any person having an interest in the property to be forfeited; and
 - (c) any person appointed under section 15 (1),
- within 7 days after the date of filing of the application.

Application to set aside or vary forfeiture orders (O. 89E, r. 9)

9.—(1) An application under section 27 (1) to vary or set aside a forfeiture order must be made by summons.

(2) An application under paragraph (1) and an affidavit in support thereof must be filed and served on —

- (a) the Attorney-General; and

(b) any person appointed under section 15 (1), within 7 days after the date of filing of the application.

Confidentiality of documents (O. 89E, r. 10)

10. Notwithstanding Order 60, Rule 4, no person may inspect or take a copy of any document filed under this Order without the leave of a Judge.”.

Amendment of Appendix A

10. Appendix A of the principal Rules is amended —

- (a) by deleting the words “, unless a summons for judgment is served on him in the meantime,” in the 42nd and 43rd lines in the “*Note*” in Form 2;
- (b) by inserting, immediately below “O. 7, r. 2” in the marginal reference of Forms 6 and 7, “O.12, r. 9”;
- (c) by inserting, immediately after Form 114B, the following Forms:

“114C.

O. 55D, r. 3 UNDERTAKING FOR SECURITY FOR COSTS
O. 57, r. 3

(Title as in Form 114A or 115)

To the respondent

We, the solicitors for the appellant, undertake to hold the sum of \$ by way of security for your costs of appeal and, if the appellant’s appeal is dismissed, to release to you the said amount without set off unless the court otherwise orders.

Dated this day of 20 .

Solicitors for the appellant(s)

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

(Signature)

Judge

(Seal)’.

*[G.N. Nos. S 612/2001; S 142/2002; S 150/2002; S 229/2002;
S 565/2002; S 615/2002; S 113/2003; S 258/2003]*

Made this 24th day of July 2003.

YONG PUNG HOW
Chief Justice.

CHAN SEK KEONG
Attorney-General.

CHAO HICK TIN
Judge of Appeal.

LAI KEW CHAI
Judge.

JUDITH PRAKASH
Judge.

TAN LEE MENG
Judge.

WOO BIH LI
Judge.

RICHARD R. MAGNUS
Senior District Judge.

LAU WING YUM
District Judge.

MICHAEL KHOO KAH LIP
Advocate and Solicitor.

R.E. MARTIN
Advocate and Solicitor.

[RSCS R7/7; AG/LEG/SL/322/2001/1 Vol. 3]

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