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No. S 390

SUPREME COURT OF JUDICATURE ACT
(CHAPTER 322)

RULES OF COURT (AMENDMENT NO. 2) RULES 2014

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. These Rules may be cited as the Rules of Court (Amendment No. 2) Rules 2014 and shall come into operation on 2nd July 2014.

Amendment of Order 60

2. Order 60 of the Rules of Court (R 5, 2014 Ed.) (referred to in these Rules as the principal Rules) is amended —

(a) by inserting, immediately after paragraph (2) of Rule 1, the following paragraph:

“(3) The business of the Registry, including the collection, use or disclosure of data contained in any document filed in the Registry, shall be governed by these Rules and by practice directions issued by the Registrar.”; and

(b) by deleting the word “Any” in Rule 4(1) and substituting the words “Subject to any practice directions issued by the Registrar, any”.

Deletion and substitution of Order 98

3. Order 98 of the principal Rules is deleted and the following Order substituted therefor:

“ORDER 98

INCOME TAX ACT

Interpretation and application (O. 98, r. 1)

1.—(1) In this Order —

“Act” means the Income Tax Act (Cap. 134), and any reference to a section shall be construed as a reference to a section in the Act;

“proceedings to which this Order applies” means any proceedings to review the exercise by the Comptroller of any power under section 65, 65A or 65B to obtain information for the purposes of complying with a request made under section 105D(1) and any application relating to such proceedings;

“subject request”, in relation to any proceedings to which this Order applies, means the request made under section 105D(1) for which power under section 65, 65A or 65B was exercised, and the exercise of which is the subject of those proceedings.

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

(3) This Order applies to proceedings commenced on or after 2nd July 2014.

Certain documents not subject to discovery or inspection (O. 98, r. 2)

2.—(1) In any proceedings to which this Order applies, no person may inspect or take a copy of any document relating to those proceedings without the leave of Court.

(2) The Court shall not grant leave under paragraph (1) if —

- (a) the document is one referred to in paragraph (4); and
- (b) the competent authority under the prescribed arrangement pursuant to which the subject request was made has requested the Comptroller not to disclose the document to any person.

(3) The Comptroller may not in any proceedings to which this Order applies, being proceedings under Order 24, be ordered to give discovery of or produce for inspection any document if —

- (a) the document is one referred to in paragraph (4); and
- (b) the competent authority under the prescribed arrangement pursuant to which the subject request was made has requested the Comptroller not to disclose the document to any person.

(4) Paragraphs (2) and (3) apply to the following documents:

- (a) the subject request;
- (b) any document relating to the subject request which is given by or to the Comptroller, to or by the competent authority or a person acting on behalf of the competent authority.

Publication of information in proceedings (O. 98, r. 3)

3.—(1) Subject to paragraph (2), no information relating to any proceedings to which this Order applies may be published without the leave of Court.

(2) The Court shall not grant leave under paragraph (1) unless it is satisfied that the information, if published in accordance with such direction as it may give, would not reveal any matter that —

- (a) the Comptroller;
- (b) the person from whom the Comptroller obtains the information; or
- (c) the person in relation to whom information is sought,

reasonably wishes to remain confidential.

Confidentiality (O. 98, r. 4)

4.—(1) A Court may, in any proceedings to which this Order applies, on the application of the Comptroller, make such further order as it may consider necessary to ensure the confidentiality of anything relating to those proceedings.

(2) Every application, affidavit or other document filed with the Court for the purpose of any proceedings to which this Order applies shall be sealed upon the request of the applicant or the Comptroller.

Application for leave of Court (O. 98, r. 5)

5.—(1) An application for leave of the Court under this Order must be supported by an affidavit.

(2) The application and supporting affidavit must be filed and served on each of the following persons at least 28 days before the date fixed for the hearing of the application, unless that person is the applicant himself:

(a) the Comptroller;

(b) the person from whom the Comptroller obtains the information;

(c) the person in relation to whom information is sought.

(3) Any person on whom the application and affidavit are served under paragraph (2) must, if he wishes to reply to the affidavit of the applicant, file and serve his affidavit on the applicant within 14 days after service of the applicant's affidavit.

(4) The application shall be heard by a Judge in Chambers.

Order 60, Rule 4 not applicable (O. 98, r. 6)

6. Order 60, Rule 4 shall not apply in relation to any proceedings to which this Order applies.”.

New Order 105

4. The principal Rules are amended by inserting, immediately after Order 104, the following Order:

“ORDER 105

PERSONAL DATA PROTECTION ACT 2012

Interpretation (O. 105, r. 1)

1. In this Order —

“Act” means the Personal Data Protection Act 2012 (Act 26 of 2012), and any reference to a section shall be construed as a reference to a section in the Act;

“Appeal Committee” means a Data Protection Appeal Committee nominated under section 33(4);

“Commission” means the Personal Data Protection Commission established under section 5.

Powers under section 30 exercisable by Judge or Registrar (O. 105, r. 2)

2.—(1) Subject to paragraph (2), the powers conferred on the District Court by section 30 may be exercised by a District Judge in Chambers or the Registrar.

(2) The powers conferred on the District Court by section 30(3) may only be exercised by a District Judge.

Application to register of Commission’s Direction or Appeal Committee’s Decision (O. 105, r. 3)

3. An application to register in the District Court —

- (a) any direction made by the Commission under section 28(2) or 29, including any direction varied by the Commission under section 31(4)(b) (referred to in this Order as a Direction); or
- (b) any direction or decision made by an Appeal Committee under section 34(4) (referred to in this Order as a Decision),

must be made by an ex parte originating summons.

Evidence in support of application to register (O. 105, r. 4)

4.—(1) An application under section 30 to register in the District Court a Direction or Decision must be supported by an affidavit —

- (a) exhibiting the Direction or Decision sought to be registered or a verified or certified or otherwise duly authenticated copy thereof;
- (b) stating that the Commission is the party seeking to register the Direction or Decision;
- (c) stating the name and the usual or last known place of business or residence of the party against whom the Direction or Decision has been made so far as known to the deponent; and

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- (d) stating to the best of the information or belief of the deponent that —
- (i) the Commission is entitled to enforce the Direction or Decision;
 - (ii) as at the date of the application —
 - (A) the Direction or Decision has not been appealed against and the time allowed for appealing has expired; or
 - (B) all appeals against the Direction or Decision under section 34(1)(a) or (b) or section 35(1) or (4) have been finally disposed of and no further appeal is feasible;
 - (iii) as at the date of the application, the Direction or Decision has not been complied with; and
 - (iv) the amount of financial penalty imposed thereunder which remains unsatisfied, if applicable.

(2) In addition, an affidavit supporting an application to register in the District Court a Direction must state that at the date of the application —

- (a) there has been no application made under section 31(1) to the Commission to reconsider the Direction and the time allowed to apply for reconsideration has expired; or
- (b) all applications made under section 31(1) to the Commission to reconsider the Direction have been finally disposed of and —
 - (i) the decision of the Commission made under section 31(4)(b) upon reconsideration of the Direction has not been appealed against and the time allowed for appealing has expired; or
 - (ii) all appeals against the decision of the Commission made under section 31(4)(b) upon reconsideration of the Direction have been finally disposed of and the time allowed for making a further appeal (where applicable) under section 34(1)(c) or section 35(1) or (4) has expired.

Order for registration (O. 105, r. 5)

5.—(1) An order in Form 230 to register a Direction or Decision must be drawn up by, or on behalf of, the Commission and served on the party against whom the Direction or Decision has been made.

(2) Unless the Court otherwise directs, every order registering a Direction or Decision shall state the period within which an application may be made to set aside the registration of the Direction or Decision and shall contain a notification that execution on the Direction or Decision will not issue until after the expiry of that period.

(3) Any application to extend the period to set aside the registration of the Direction or Decision (whether as originally fixed or as subsequently extended) must be made before the expiry of that period.

(4) The Court may extend the period referred to in paragraph (3) on such terms as it thinks fit.

Register of Directions and Decisions (O. 105, r. 6)

6. There shall be kept in the Registry a register of all the Directions and Decisions registered under this Order.

Notice of registration (O. 105, r. 7)

7.—(1) Notice of the registration of a Direction or Decision must be served on the party against whom the Direction or Decision has been made and subject to paragraph (2), must be served personally, unless the Court otherwise orders.

(2) Service of such a notice out of the jurisdiction is permissible without leave, and Order 11, Rules 3, 4 and 6, shall apply in relation to such a notice as they apply in relation to a writ.

(3) The notice of registration must state —

- (a) full particulars of the Direction or Decision registered and the order for registration;
- (b) the name and address of the party seeking to enforce the Direction or Decision or of his solicitor on whom, and at which, any summons issued by the party against whom the Direction or Decision, as the case may be, has been made may be served;

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- (c) that the party against whom the Direction or Decision has been made has a right to apply to have the registration set aside; and
 - (d) the period within which an application to set aside the registration may be made.

Endorsement of service (O. 105, r. 8)

8.—(1) Within 3 days after service of the notice of registration or within such longer period as the Court may, in special circumstances, allow, the notice or a copy thereof must be endorsed by the person who served it with the day of the week and date on which it was served.

(2) If the notice is not so endorsed within the period mentioned in paragraph (1), the person seeking to enforce the Direction or Decision to which the notice relates may not issue execution on the Direction or Decision without the leave of the Court.

(3) Every affidavit of service of any such notice must state the date on which the notice was endorsed under this Rule.

Application to set aside registration (O. 105, r. 9)

9.—(1) An application to set aside the registration of a Direction or Decision must be made by summons supported by an affidavit.

(2) The Court hearing such application may order any issue between —

- (a) the Commission and the party against whom the Direction or Decision is made; or
- (b) the complainant referred to in section 28(1) upon whose application a Direction or Decision is made and the party against whom the Direction or Decision is made,

to be tried in any manner in which an issue in an action may be ordered to be tried.

(3) The Court hearing an application under this Rule to set aside the registration of a Direction or Decision may order the registration of the Direction or Decision to be set aside on such terms as it thinks fit.

Issue of execution (O. 105, r. 10)

10.—(1) Where, pursuant to Rule 5(2), there is a specified period within which an application may be made to set aside the registration of a Direction or Decision, execution shall not issue on the Direction or Decision until after the expiry of the specified period, or if that period has been extended by the Court, until after the expiry of that period so extended.

(2) If an application is made to set aside the registration of a Direction or Decision, execution on the Direction or Decision shall not issue until after such application is disposed of.

(3) Any party wishing to issue execution on a Direction or Decision registered in accordance with this Order must produce to the bailiff an affidavit of service of the notice of registration of the Direction or Decision and any order made by the Court in relation to the Direction or Decision.

Application for enforcement order under section 30(3) (O. 105, r. 11)

11.—(1) An application for any order specified in section 30(3) in relation to any Direction or Decision —

- (a) may be made together with, or at any time after, an application for registration under Rule 3 relating to that same Direction or Decision; and
- (b) shall not constitute execution on that Direction or Decision under Rule 10.

(2) The application referred to in paragraph (1) may be made by summons supported by an affidavit and where the case is one of urgency, may be made *ex parte*.

(3) The affidavit shall state —

- (a) the grounds relied upon by the applicant for the order sought; and
- (b) the appropriateness of the order sought in addressing the grounds relied upon by the applicant.

Notice to Commission of claim for relief in civil proceedings under section 32(1) (O. 105, r. 12)

12. Where any claim is made for relief in civil proceedings under section 32(1), the plaintiff in those proceedings must serve a copy of the writ or originating summons to the Commission not later than 7 days after service of the writ or originating summons on the defendant.

Transmission to Commission of judgment or order of Court under section 32 (O. 105, r. 13)

13. Any person who is granted any judgment or order by a Court pursuant to section 32 shall transmit a copy of the judgment or order to the Commission within 3 days after the date of the judgment or order.”.

Amendment of Appendix A

5. Appendix A of the principal Rules is amended by inserting, immediately after Form 229, the following Form:

“230.

O. 105, r. 5

ORDER FOR REGISTRATION OF
PERSONAL DATA PROTECTION
COMMISSION DIRECTION/
DATA PROTECTION
APPEAL COMMITTEE DECISION*

IN THE STATE COURTS
OF THE REPUBLIC OF SINGAPORE

O.S. No.)

of 20 .)

In the matter of section 30(1) of the Personal Data Protection Act 2012 (Act 26 of 2012).

And in the matter of a Direction of the Personal Data Protection Commission/a Decision of the Data Protection Appeal Committee* obtained in (describe the proceedings) and dated the day of 20 .

Upon the application of , and upon reading the affidavit of filed the day of 20 .

It is ordered that the Direction of the Personal Data Protection Commission/Decision of the Data Protection Appeal Committee* dated the day of 20 , whereby it was directed that (state the full details of the Direction/Decision*(s) including the name of the party against whom the Direction/Decision* was made) be registered as an order of the District Court pursuant to section 30(1)/section 34(5) read with section 30(1)* of the Personal Data Protection Act 2012.

(It is further ordered that (name of party against whom the Direction/Decision* was made) be at liberty to apply to set aside the said registration within days after service upon him (state whether service is to be within jurisdiction or in a foreign country, the name of which is to be stated) of notice of such registration pursuant to Order 105, Rule 7 if he has grounds for so doing, and execution upon the Direction/Decision*(s) shall not issue until after the expiration of that period or any extension of the period granted by the Court; or if an application be made to set aside the registration, until such application has been disposed of.)*

It is ordered that costs of this application be .

Dated this day of 20 .

This form requires sealing by the Court and the signature of the Registrar.

*Delete whichever is inapplicable.”.

Savings and transitional provision

6. Notwithstanding Rule 3, Order 98 of the Rules of Court in force immediately before 2nd July 2014 shall continue to apply to any application to the High Court made before 29th November 2013 under section 105J in force immediately before 29th November 2013, and is still pending on 2nd July 2014.

[G.N. No. S 299/2014]

Made this 27th day of May 2014.

SUNDARESH MENON
Chief Justice.

STEVEN CHONG HORNG SIONG, SC
Attorney-General.

V K RAJAH
Judge of Appeal.

BELINDA ANG SAW EAN
Judge.

TAY YONG KWANG
Judge.

QUENTIN LOH
Judge.

VINODH COOMARASWAMY
Judge.

SEE KEE OON
Presiding Judge of the State Courts.

FOO TUAT YIEN
District Judge.

CAVINDER BULL, SC
Advocate and Solicitor.

ANG CHENG HOCK, SC
Advocate and Solicitor.

[RSCS R7/7 Vol. 15; AG/LLRD/SL/322/2010/1 Vol. 8]

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