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No. S 474

SUPREME COURT OF JUDICATURE ACT
(CHAPTER 322)

RULES OF COURT (AMENDMENT NO. 2) 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. These Rules are the Rules of Court (Amendment No. 2) Rules 2016 and come into operation on 1 October 2016.

Amendment of Order 57

2. Order 57, Rule 9A of the Rules of Court (R 5) (called in these Rules the principal Rules) is amended —

- (a) by inserting, immediately after the words “a supplemental core bundle” in paragraph (2A), the words “(called in this Order the Respondent’s supplemental core bundle)”;
- (b) by deleting the words “any supplemental core bundle” in paragraph (3)(c) and substituting the words “the Respondent’s supplemental core bundle (if any)”;
- (c) by deleting paragraph (5C) and substituting the following paragraphs:

“(5C) If the appellant intends to refer to any document in the Appellant’s Reply or at the appeal, and that document is not included in either the core bundle or the Respondent’s supplemental core bundle, the appellant must file, at the same time as the Appellant’s Reply, a supplemental core bundle (called

in this Order the Appellant’s supplemental core bundle) containing —

(a) any additional documents that are not included in the core bundle and the Respondent’s supplemental core bundle; and

(b) an index of the documents included in the Appellant’s supplemental core bundle, which cross-refers each such document to its location in the record of appeal or joint record of appeal (as the case may be).

(5D) Unless the context otherwise requires, this Rule and Rule 10 apply, with the necessary modifications, in relation to an Appellant’s Reply as they apply in relation to a Case.”; and

(d) by inserting, immediately after paragraph (22), the following paragraph:

“(23) Except with the leave of the Court of Appeal, a party cannot file any bundle of documents for an appeal before the Court of Appeal, other than —

(a) the core bundle;

(b) the Respondent’s supplemental core bundle; or

(c) the Appellant’s supplemental core bundle.”.

Amendment of Order 59

3. Order 59, Rule 29 of the principal Rules are amended by deleting paragraph (2) and substituting the following paragraphs:

“(2) The costs payable by a plaintiff in any proceedings mentioned in paragraph (1)(a) or (b) to the plaintiff’s solicitor (being the costs of those proceedings, costs incidental to the claim in those proceedings, or costs consequent on those proceedings) must be taxed under Rule 28 or fixed by the Court.

(2A) No costs are payable to the solicitor of a plaintiff in respect of any proceedings mentioned in paragraph (1)(a) or (b) except such amount of costs as may be —

- (a) certified in accordance with paragraph (3) on a taxation under Rule 28 of the solicitor’s bill of costs to the plaintiff; or
- (b) fixed by the Court.”.

Deletion and substitution of Order 90B

4. Order 90B of the principal Rules is deleted and the following Order substituted therefor:

“ORDER 90B

COURT FEES FOR CORE BUNDLE, ETC.

Court fees for filing core bundle, etc. (O. 90B, r. 1)

1.—(1) The fees payable on the filing of the following bundles are specified in Appendix B:

- (a) the core bundle under Order 57, Rule 9(2A);
- (b) the Respondent’s supplemental core bundle under Order 57, Rule 9A(2A);
- (c) the Appellant’s supplemental core bundle under Order 57, Rule 9A(5C);
- (d) any bundle of documents that the Court of Appeal has given leave under Order 57, Rule 9A(23) to file.

(2) The following are to be excluded when calculating the number of pages for the purpose of determining the fees mentioned in paragraph (1):

- (a) the copy of the grounds of judgment or order;
- (b) the judgment or order appealed from;
- (c) the index of documents required to be included in the core bundle under Order 57, Rule 9(2A);

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- (d) the index of documents required to be included in the Respondent's supplemental core bundle under Order 57, Rule 9A(2A);
 - (e) the index of documents required to be included in the Appellant's supplemental core bundle under Order 57, Rule 9A(5C).

Refund of fees paid under Rule 1 (O. 90B, r. 2)

2. The Court of Appeal may, on the application of a party to an appeal, order a refund of the whole or any part of any fee which has been paid under Rule 1 for a bundle mentioned in Rule 1(1)(a), (b), (c) or (d), if the Court of Appeal is satisfied that the documents comprised in that bundle were necessary for the just, expeditious and economical disposal of the appeal.”.

Amendment of Order 110

5. Order 110 of the principal Rules is amended —

(a) by inserting, immediately before the definition of “counsel” in Rule 1(1), the following definition:

“ “chosen court” has the same meaning as in section 2(1) of the Choice of Court Agreements Act 2016 (Act 14 of 2016);”;

(b) by inserting, immediately after the definition of “Court” in Rule 1(1), the following definition:

“ “exclusive choice of court agreement” has the same meaning as in section 3 of the Choice of Court Agreements Act 2016;”;

(c) by deleting the definition of “High Court” in Rule 1(1);

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

“(1A) In this Order (other than paragraph (2)(c) and (ca)), unless the context otherwise requires, “High Court” does not include the Court.”;

(e) by deleting sub-paragraph (c) of Rule 1(2) and substituting the following sub-paragraphs:

“(c) where an agreement to submit to the jurisdiction of the High Court is concluded before 1 October 2016, the agreement does not of itself constitute an agreement to submit to the jurisdiction of the Court;

(ca) where an agreement to submit to the jurisdiction of the High Court is concluded on or after 1 October 2016, the agreement is to be construed as including an agreement to submit to the jurisdiction of the Court, unless a contrary intention appears in the agreement;”;

(f) by inserting, immediately after paragraph (3) of Rule 10, the following paragraphs:

“(3A) For the purposes of paragraph (3)(a)(ii), where a choice of court agreement designates the High Court as a court for the case, the Court is to treat each party to the agreement as a party who consents to the proceedings being heard in the High Court.

(3B) To avoid doubt, paragraph (3)(b) does not enable the Court to make an order for the transfer of the proceedings to any other court in Singapore.”;

(g) by inserting, immediately after paragraph (3) of Rule 12, the following paragraphs:

“(3A) For the purposes of paragraph (3)(b), where a choice of court agreement designates the High Court as a court for the case, the Court is to treat the application for the transfer of the case to the High Court as being made with the consent of each party to the agreement.

(3B) Where the Choice of Court Agreements Act 2016 (Act 14 of 2016) applies in a case by virtue of

section 8 of that Act, and an exclusive choice of court agreement designates the High Court as a chosen court for the case, the case may be transferred from the High Court to the Court only if the following requirements are met:

- (a) the High Court considers that —
 - (i) the requirements in Rule 7(1)(a) and (c) are met; and
 - (ii) it is more appropriate for the case to be heard in the Court;
- (b) either —
 - (i) a party to the case has applied, with the consent of every other party to the case, for the transfer in accordance with Rule 13; or
 - (ii) the High Court, with the consent of every party to the case, orders the transfer on its own motion.”;
- (h) by deleting the word “A” in Rule 12(4) and substituting the words “Subject to paragraph (3B), a”;
- (i) by inserting, immediately after paragraph (4) of Rule 12, the following paragraphs:

“(4A) For the purposes of paragraphs (3B)(b)(i) and (4)(b)(i), where a choice of court agreement designates the Court as a court for the case, the High Court is to treat the application for the transfer of the case to the Court as being made with the consent of each party to the agreement.

(4B) For the purposes of paragraph (3B)(b)(ii), where a choice of court agreement designates the Court as a court for the case, the High Court is to treat each party to the agreement as a party who consents to an order, by the High Court on its own motion, for the transfer of the case to the Court.”;

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- (j) by deleting the words “Rule 12(3) or (4)” in Rule 13(3)(a) and substituting the words “Rule 12(3), (3B) or (4)”; and
- (k) by inserting, immediately after Rule 13, the following Rule:

**“Variation of exclusive choice of court agreement
in case mentioned in Rule 10(3) or 12(3) or (3B)
(O. 110, r. 13A)**

13A.—(1) Where the Choice of Court Agreements Act 2016 (Act 14 of 2016) applies in any case mentioned in Rule 10(3) or 12(3) by virtue of section 8 of that Act, and an exclusive choice of court agreement designates the Court, but not the High Court, as a chosen court for the case, the Court may, before transferring the proceedings or case (as the case may be) to the High Court, direct every party to the agreement to vary that agreement, so as to designate the High Court as a chosen court for the case.

(2) In any case mentioned in Rule 12(3B) where an exclusive choice of court agreement designates the High Court, but not the Court, as a chosen court for the case, the High Court may, before transferring the case to the Court, direct every party to the exclusive choice of court agreement to vary that agreement, so as to designate the Court as a chosen court for the case.”.

New Order 111

6. The principal Rules are amended by inserting, immediately after Order 110, the following Order:

“ORDER 111

CHOICE OF COURT AGREEMENTS ACT 2016

Interpretation (O. 111, r. 1)

1.—(1) In this Order —

“Act” means the Choice of Court Agreements Act 2016 (Act 14 of 2016), and any reference to a section is a reference to a section in the Act;

“Court” means the High Court;

“Court order” means an order of the Court —

- (a) for a foreign judgment to be recognised, or recognised and enforced, under the Act; or
- (b) for a judicial settlement to be enforced under the Act.

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

(3) The powers conferred on the Court by the Act may be exercised by a Judge in Chambers and the Registrar.

Application for recognition, or recognition and enforcement, of foreign judgment (O. 111, r. 2)

2.—(1) An application under section 13 for a foreign judgment, or a part of a foreign judgment, to be recognised, or to be recognised and enforced, in the same manner and to the same extent as a judgment issued by the High Court must be made by *ex parte* originating summons supported by an affidavit.

(2) The supporting affidavit must state, to the best of the information or belief of the deponent —

- (a) that the judgment, the whole or part of which is to be recognised or recognised and enforced, is a foreign judgment within the meaning of section 2(1);
- (b) where the foreign judgment or part of the foreign judgment is to be recognised, that the judgment or that part (as the case may be) has effect in the State of origin;
- (c) where the foreign judgment or part of the foreign judgment is to be enforced, that the judgment or that part (as the case may be) is enforceable in the State of origin;
- (d) that the exclusive choice of court agreement, applicable to the dispute in relation to which the

foreign judgment was obtained, was concluded in a civil or commercial matter;

- (e) either of the following:
- (i) that at the date of the application, the foreign judgment, or the part of the foreign judgment to be recognised or recognised and enforced, has not been satisfied;
 - (ii) the amount in respect of which, at the date of the application, the foreign judgment, or the part of the foreign judgment to be recognised or recognised and enforced, remains unsatisfied;
- (f) that the foreign judgment does not relate to a matter mentioned in section 9 or 10 to which the Act does not apply;
- (g) that there are no circumstances under Part 3 of the Act in which the Court must refuse to recognise or enforce the foreign judgment;
- (h) whether there are any circumstances under Part 3 of the Act in which the Court may refuse to recognise or enforce the foreign judgment; and
- (i) where there are circumstances in which the Court may refuse to recognise or enforce the foreign judgment, each reason why the Court should nevertheless recognise or enforce the judgment.

(3) The supporting affidavit must exhibit the following documents:

- (a) a complete and certified copy of the foreign judgment (including the reasons, if any, for the decision of the court which gave the judgment);
- (b) the exclusive choice of court agreement applicable to the dispute in relation to which the foreign judgment was obtained, a certified copy of that agreement or any other evidence of the existence of that agreement;

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- (c) where the foreign judgment was given by default, the original or a certified copy of a document showing that the party in default was notified of —
 - (i) the document by which the proceedings were instituted; or
 - (ii) an equivalent document;
 - (d) any other documents necessary to establish —
 - (i) that the foreign judgment has effect in the State of origin;
 - (ii) where the foreign judgment or part of the foreign judgment is to be enforced, that the judgment or that part (as the case may be) is enforceable in the State of origin; and
 - (iii) any matter mentioned in paragraph (2)(a) and (d) to (i).

(4) If the Court hearing the application cannot determine, from the terms of the foreign judgment, whether the requirements in Part 3 of the Act pertaining to the recognition and enforcement of foreign judgments have been complied with, the Court may require the applicant to produce a supplementary affidavit and any other documents necessary to make the determination.

Application for enforcement of judicial settlement (O. 111, r. 3)

3.—(1) An application under section 20 for a judicial settlement, or a part of a judicial settlement, to be enforced in the same manner and to the same extent as a judgment issued by the High Court must be made by *ex parte* originating summons supported by an affidavit.

(2) The supporting affidavit must state, to the best of the information or belief of the deponent —

- (a) that the contract, the whole or part of which is to be enforced, is a judicial settlement within the meaning of section 2(1);

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- (b) that the judicial settlement —
 - (i) was approved by a chosen court designated in an exclusive choice of court agreement between the parties to the settlement; or
 - (ii) was concluded before the chosen court mentioned in sub-paragraph (i) in the course of proceedings before that court;
 - (c) that the judicial settlement, or the part of the judicial settlement to be enforced, is enforceable in the same manner and to the same extent as a judgment in the State of origin;
 - (d) that the exclusive choice of court agreement, applicable to the dispute in which the judicial settlement was approved or concluded, was concluded in a civil or commercial matter;
 - (e) either of the following:
 - (i) that at the date of the application, the judicial settlement, or the part of the judicial settlement to be enforced, has not been satisfied;
 - (ii) the amount in respect of which, at the date of the application, the judicial settlement, or the part of the judicial settlement to be enforced, remains unsatisfied;
 - (f) that the judicial settlement does not relate to a matter mentioned in section 9 or 10 to which the Act does not apply;
 - (g) that there are no circumstances mentioned in section 20(3) in which the Court must refuse to enforce the judicial settlement;
 - (h) whether there are any circumstances mentioned in section 20(4) in which the Court may refuse to enforce the judicial settlement; and
 - (i) where there are circumstances in which the Court may refuse to enforce the judicial settlement, each reason

why the Court should nevertheless enforce the judicial settlement.

(3) The supporting affidavit must exhibit the following documents:

- (a) a complete and certified copy of the judicial settlement;
- (b) the exclusive choice of court agreement applicable to the dispute in relation to which the judicial settlement was approved or concluded, a certified copy of that agreement or any other evidence of the existence of that agreement;
- (c) a certificate of a court of the State of origin that the judicial settlement, or the part of the judicial settlement to be enforced, is enforceable in the same manner and to the same extent as a judgment in the State of origin;
- (d) any other documents necessary to establish —
 - (i) that the judicial settlement, or the part of the judicial settlement to be enforced, is enforceable in the same manner and to the same extent as a judgment in the State of origin; and
 - (ii) any matter mentioned in paragraph (2)(a) and (d) to (i).

(4) If the Court hearing the application cannot determine, from the terms of the judicial settlement, whether the requirements in section 20 pertaining to the enforcement of judicial settlements have been complied with, the Court may require the applicant to produce a supplementary affidavit and any other documents necessary to make the determination.

**Other document to assist Court in determining application
(O. 111, r. 4)**

4. For the purposes of assisting the Court in determining an application mentioned in Rule 2 or 3, the application may be accompanied by a document, issued by a court of the State of

origin (or an officer of that court), in the form mentioned in Article 13(3) of the Convention (being a form which is recommended and published by the Hague Conference on Private International Law, and is of the version in force on the date the application is made).

Language of documents (O. 111, r. 5)

5.—(1) If the whole or any part of any document to be exhibited or produced under Rule 2, 3 or 4 is not in the English language, the document must be accompanied by a translation in the English language of the whole or that part (as the case may be) of that document.

(2) The translation mentioned in paragraph (1) —

- (a) must be certified by the person making the translation to be a correct translation; and
- (b) must contain, or be accompanied by, a certificate by that person stating —
 - (i) that person's full name;
 - (ii) that person's address; and
 - (iii) that person's qualifications for making the translation.

Court order (O. 111, r. 6)

6.—(1) A Court order must be in Form 253.

(2) An applicant for the recognition, or the recognition and enforcement, of the whole or any part of a foreign judgment, or for the enforcement of the whole or any part of a judicial settlement, must —

- (a) draw up the Court order; and
- (b) within 28 days after the date on which the Court order (relating to the foreign judgment or judicial settlement) is made, serve the Court order, together with a copy of the foreign judgment or judicial settlement, personally on every party to the case or

proceedings in which the foreign judgment or judicial settlement was obtained.

- (3) The Court order must state —
- (a) that any party, to the case or proceedings in which the foreign judgment or judicial settlement was obtained, may apply to set aside the Court order;
 - (b) the period under Rule 7(1)(b) within which a party mentioned in sub-paragraph (a) must file the application to set aside the Court order; and
 - (c) that the Court order will not take effect until after the expiration of that period.

(4) A Court order may be served out of the jurisdiction without leave of the Court, and Order 11, Rules 3, 4, 6 and 7 apply, with the necessary modifications, in relation to such service as they apply to the service of an originating process.

(5) The applicant in paragraph (2) must, within 14 days after the date on which the Court order, and the copy of the foreign judgment or judicial settlement, are served on a party, file an affidavit of service on that party, of the Court order and the copy of the foreign judgment or judicial settlement.

Application to set aside Court order (O. 111, r. 7)

7.—(1) An application to set aside a Court order relating to a foreign judgment or judicial settlement —

- (a) must be made by summons and supported by an affidavit stating the grounds on which the applicant seeks to set aside the Court order; and
- (b) must, where the Court order and a copy of the foreign judgment or judicial settlement were served on the applicant, be filed within —
 - (i) 28 days after the date on which the Court order, and the copy of the foreign judgment or judicial settlement (as the case may be), were served on the applicant; or

(ii) such longer period as the Court may allow.

(2) The applicant must, within 14 days after the date on which the application and supporting affidavit are filed, serve the application and supporting affidavit on the following parties (each called in this Rule a respondent):

(a) the party who obtained the Court order;

(b) every other party to the case or proceedings in which the foreign judgment or judicial settlement was obtained.

(3) Each respondent may, within 21 days after being served with the application and supporting affidavit, file, and serve on the applicant and every other respondent, an affidavit in reply.

(4) The Court hearing the application may order any issue between the applicant and any respondent to be tried in any manner in which an issue in an action may be ordered to be tried.

When Court order takes effect (O. 111, r. 8)

8. A Court order does not take effect while an application to set aside the Court order —

(a) may still be filed under Rule 7(1)(b) by a party on whom the Court order, and a copy of the foreign judgment or judicial settlement to which the Court order relates, were served under Rule 6; or

(b) is pending.

Security for costs (O. 111, r. 9)

9. The Court may order any party to any application or proceedings under Rule 2, 3 or 7 to give security for the costs of the application or proceedings.

Issue of execution on foreign judgment or judicial settlement (O. 111, r. 10)

10. A party who obtains a Court order, and who wishes to issue execution on the foreign judgment or judicial settlement in

relation to which the Court order is obtained, must produce to the Sheriff —

- (a) the Court order and a copy of the foreign judgment or judicial settlement; and
- (b) the affidavit of service, on the party against whom the execution is sought, of the Court order and the copy of the foreign judgment or judicial settlement.”.

Amendment of Appendix A

7. Appendix A to the Rules of Court is amended by inserting, immediately after Form 252, the following Form:

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253.

O. 111, r. 6(1) ORDER FOR RECOGNITION/
RECOGNITION AND ENFORCEMENT/
ENFORCEMENT OF A FOREIGN
JUDGMENT/
JUDICIAL SETTLEMENT
UNDER THE CHOICE OF COURT
AGREEMENTS ACT 2016

IN THE HIGH COURT OF
THE REPUBLIC OF SINGAPORE

O.S. No.)

of 20 .)

Between

Judgment/Settlement Creditor*

And

Judgment/Settlement Debtor*

In the matter of an application under section 13(1)/20(1)* of the Choice of Court Agreements Act 2016 (Act 14 of 2016).

And in the matter of a foreign judgment/judicial settlement* of the (describe the court) in (city/state/country) given/concluded/approved* in (case number) on (date).

(b) by inserting, immediately after item 35, the following items:

No.	Items	----- Fees -----				Document to be stamped and remarks
		Supreme Court	Supreme Court	District Court	Magistrate's Court	
		With value of up to \$1 million	With value of more than \$1 million			
		\$	\$	\$	\$	
"35A.	On filing an Appellant's supplemental core bundle under Order 57, Rule 9A(5C), for every page or part thereof in excess of 50 pages.	10	10			The supplemental core bundle.
35B.	On filing a bundle of documents that the Court of Appeal has given leave under Order 57, Rule 9A(23) to file, for every page or part thereof.	12	12			The bundle of documents.";

(c) by deleting items 56 and 65;

(d) by deleting "5" wherever it appears in item 64 and substituting in each case "45"; and

(e) by deleting "20" wherever it appears in item 67 and substituting in each case "25".

Amendment of Appendix BA

9. Appendix BA to the principal Rules is amended —

(a) by deleting items 1 and 7;

(b) by deleting "\$5" in item 6 and substituting "\$45"; and

(c) by deleting "\$20" in item 8 and substituting "\$25".

[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; S 235/2016]

Made on 28 September 2016.

SUNDARESH MENON
Chief Justice.

V K RAJAH, SC
Attorney-General.

TAY YONG KWANG
Judge of Appeal.

BELINDA ANG SAW EAN
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.013.0100; AG/LEGIS/SL/322/2015/1 Vol. 6]

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