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No. S 635

SUPREME COURT OF JUDICATURE ACT (CHAPTER 322)

RULES OF COURT (AMENDMENT NO. 6) RULES 2021

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:

Citation and commencement

1. These Rules are the Rules of Court (Amendment No. 6) Rules 2021 and come into operation on 1 September 2021.

Amendment of Order 39

2. Order 39 of the Rules of Court (R 5) (called in these Rules the principal Rules) is amended —

- (a) by deleting the words “judicial authorities” in Rules 2(1)(a) and 3(1) and substituting in each case the words “relevant authorities”;
- (b) by deleting the word “country” wherever it appears in Rules 2(1)(a) and (b) and (2) and 3(1) and substituting in each case the word “jurisdiction”;
- (c) by inserting, immediately after paragraph (3) of Rule 2, the following paragraph:

“(4) An application under this Rule must be made by summons supported by an affidavit setting out the basis for the application and, where the application is made under paragraph (1)(a), enclosing a copy of each document the applicant intends to file in the Registry pursuant to Rule 3.”;

(d) by deleting paragraph (2) of Rule 3 and substituting the following paragraph:

“(2) The party obtaining the order must prepare the letter of request and file it in the Registry, and the letter must be —

(a) in a case where the jurisdiction in which the evidence is to be taken is a jurisdiction to which the Hague Evidence Convention applies — in the current version of the applicable Recommended Model Form; or

(b) in any other case — in Form 76,

with such variations as may be required by the jurisdiction in which the evidence is to be taken or by the order.”;

(e) by deleting paragraph (4) of Rule 3 and substituting the following paragraph:

“(4) A letter of request filed under paragraph (2), or a document filed under paragraph (3) or attached to the letter, must be accompanied by a translation of the letter or document in a language specified by the jurisdiction in which the evidence is to be taken, unless that jurisdiction accepts the letter or document in English.”;

(f) by deleting the words “the Minister” in Rule 3(6) and substituting the words “an issuing authority or a transmitting authority”;

(g) by deleting the words “the office of that Minister” in Rule 3(6) and substituting the words “the issuing authority or transmitting authority”; and

(h) by inserting, immediately after paragraph (6) of Rule 3, the following paragraph:

“(7) In this Rule —

“Hague Evidence Convention” means the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters done at the Hague on 18 March 1970;

“issuing authority” means an authority responsible for issuing a letter of request under this Rule;

“Recommended Model Form” means a Recommended Model Form for a Letter of Request to be issued under the Hague Evidence Convention, as set out on the Internet website for that Convention at <https://www.hcch.net/en/instruments/conventions/specialised-sections/evidence>;

“transmitting authority” means an authority responsible for transmitting a letter of request issued under this Rule to the relevant authorities of the jurisdiction in which the evidence is to be taken.”.

New Order 39A

3. The principal Rules are amended by inserting, immediately after Order 39, the following Order:

“ORDER 39A

EVIDENCE BY LIVE VIDEO LINK OR
LIVE TELEVISION LINK

Where person to be examined is out of jurisdiction (O. 39A, r. 1)

1.—(1) Where —

- (a) an application is made for permission for any person outside Singapore to give evidence by live video link or live television link in any proceedings; and

- (b) the laws of the jurisdiction where the person is located require the issue of a letter of request to the relevant authorities of that jurisdiction for such evidence to be given,

an application may be made for an order in Form 77A for the issue of the letter of request.

(2) An application under this Rule can only be made in the General Division even if the proceedings are commenced in the State Courts.

(3) An application under this Rule must be made by summons and supported by an affidavit setting out the basis for the application and enclosing a copy of each document the applicant intends to file in the Registry pursuant to Rule 2.

Order for issue of letter of request (O. 39A, r. 2)

2.—(1) Where an order is made under Rule 1 for the issue of a letter of request to the relevant authorities of a jurisdiction to permit evidence to be given by live video link or live television link by any person in that jurisdiction, paragraphs (2) to (5) apply.

(2) The party obtaining the order must prepare the letter of request and file it in the Registry, and the letter must be —

- (a) in a case where the jurisdiction in which the evidence is to be given is a jurisdiction to which the Hague Evidence Convention applies — in the current version of the applicable Recommended Model Form; or

- (b) in any other case — in Form 76,

with such variations as may be required by the jurisdiction in which the evidence is to be given or by the order.

(3) A letter of request filed under paragraph (2), or a document attached to the letter, must be accompanied by a translation of the letter or document in a language specified by the jurisdiction in which the evidence is to be given, unless that jurisdiction accepts the letter or document in English.

(4) Every translation filed under paragraph (3) must be certified by the person making it to be a correct translation; and the certificate must contain a statement of that person's full name, address and qualifications for making the translation.

(5) The party obtaining the order must, when the party files in the Registry the documents mentioned in paragraphs (2), (3) and (4), also file in the Registry an undertaking in Form 77 signed by the party or the party's solicitor to be responsible personally for all expenses incurred by an issuing authority or a transmitting authority in respect of the letter of request and, on receiving due notification of the amount of those expenses, to pay that amount to the issuing authority or transmitting authority and to produce a receipt for the payment to the proper officer of the Registry.

(6) In this Rule —

“Hague Evidence Convention” means the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters done at the Hague on 18 March 1970;

“issuing authority” means an authority responsible for issuing a letter of request under this Rule;

“Recommended Model Form” means a Recommended Model Form for a Letter of Request to be issued under the Hague Evidence Convention, as set out on the Internet website for that Convention at <https://www.hcch.net/en/instruments/conventions/specialised-sections/evidence>;

“transmitting authority” means an authority responsible for transmitting a letter of request issued under this Rule to the relevant authorities of the jurisdiction in which the evidence is to be taken.”.

Amendment of Appendix A

4. Appendix A to the principal Rules is amended —

- (a) by deleting the words “JUDICIAL AUTHORITY” in the Form heading of Form 74 and substituting the words “RELEVANT AUTHORITY”;
- (b) by deleting the words “proper judicial authority” in Form 74 and substituting the words “relevant authority”;
- (c) by deleting Form 76 and substituting the following Form:

“76.

O. 39, r. 3
O. 39A, r. 2

LETTER OF REQUEST FOR
EXAMINATION OF WITNESS
OUT OF JURISDICTION/PERMISSION
FOR EVIDENCE TO BE GIVEN BY
LIVE VIDEO LINK OR
LIVE TELEVISION LINK BY WITNESS
OUT OF JURISDICTION

1.	Sender	
2.	Central Authority of the Requested State	
3.	Person to whom the executed request is to be returned	
4.	Specification of the date by which the requesting authority requires receipt of the response to the Letter of Request	
	Date	
	Reason for urgency*	
5.	a Requesting authority	
	b To the Competent Authority of	
	c Names of the case and any identifying number	

6.	Names and addresses of the parties and their representatives (including representatives in the Requested State*)	
	a	Plaintiff
		Representatives
	b	Defendant
		Representatives
	c	Other parties
Representatives		

7.	a	Nature of the proceedings (divorce, paternity, breach of contract, product liability, etc.)
	b	Summary of complaint
	c	Summary of defence and counterclaim*
	d	Other necessary information or documents*

8.	a	Evidence to be obtained or other judicial act to be performed
	b	Purpose of the evidence or judicial act sought

9.	Identity and address of any person to be examined*
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10.	Questions to be put to the persons to be examined or statement of the subject matter about which they are to be examined*
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11.	Documents or other property to be inspected*
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12.	Any requirement that the evidence be given on oath or affirmation and any special form to be used*
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13.	Special methods or procedure to be followed (e.g., oral or in writing, verbatim transcript or summary, cross-examination, etc.)*	
14.	Request for notification of the time and place for the execution of the Request and identity and address of any person to be notified*	
15.	Request for attendance or participation of judicial personnel of the requesting authority at the execution of the Letter of Request*	
16.	Specification of privilege or duty to refuse to give evidence under the law of the Requesting State*	
17.	The fees and costs incurred which are reimbursable will be borne by*	

Dated this day of 20 .

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

(*Omit if not applicable)

_____”;

- (d) by inserting, immediately below “O. 39, r. 3” in the Form reference of Form 77, “O. 39A, r. 2”;
- (e) by deleting the word “SOLICITOR’S” in the Form heading of Form 77;
- (f) by deleting the words “the Minister for Foreign Affairs” in Form 77 and substituting the words “an issuing authority or a transmitting authority”;
- (g) by deleting the words “*Solicitor for the*” in Form 77 and substituting the words “*Party or Solicitor*”; and
- (h) by inserting, immediately after Form 77, the following Form:

“77A.

O. 39A, r. 1 ORDER FOR ISSUE OF LETTER
OF REQUEST TO RELEVANT
AUTHORITY OUT OF
JURISDICTION

(Title as in action)

Upon the application of _____ and upon reading the
affidavit of _____ filed the _____ day of _____ 20____ and
upon hearing _____ and that the Court is desirous of obtaining
the testimony of (name of person).

It is ordered that a letter of request do issue directed to the
relevant authority for permission for evidence to be given by live
video link or live television link by the following witnesses,
namely:

_____ of

_____ of

And it is ordered that the costs of and incidental to the
application for this order and the said letter of request and giving
of evidence be (costs in the cause).

Dated this _____ day of _____ 20____ .

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

_____”.

Saving and transitional provision

5. Despite anything in these Rules, Order 39 of the principal Rules, and Forms 74, 76 and 77 in Appendix A to the principal Rules, as in force immediately before 1 September 2021 continue to apply to an application made before that date under Rule 2(1) of that Order.

*[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; S 474/2016;
S 105/2017; S 322/2017; S 543/2017; S 51/2018;
S 183/2018; S 697/2018; S 850/2018; S 707/2019;
S 773/2019; S 35/2020; S 220/2020; S 458/2020;
S 636/2020; S 1043/2020; S 35/2021; S 71/2021;
S 357/2021; S 363/2021; S 382/2021]*

Made on 23 August 2021.

SUNDARESH MENON
Chief Justice.

LUCIEN WONG
Attorney-General.

TAY YONG KWANG
Justice of the Court of Appeal.

STEVEN CHONG
Justice of the Court of Appeal.

BELINDA ANG SAW EAN
Judge of the Appellate Division.

QUENTIN LOH
Judge of the Appellate Division.

VINODH COOMARASWAMY
Judge.

VINCENT HOONG SENG LEI
Presiding Judge of the State Courts.

CHRISTOPHER TAN PHENG WEE
*District Judge and Registrar of the
State Courts.*

FRANCIS XAVIER, SC
Advocate and Solicitor.

KUAH BOON THENG, SC
Advocate and Solicitor.

[SUPCT.RNJ.009.0200; AG/LEGIS/SL/322/2020/1 Vol. 4]

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