
First published in the Government *Gazette*, Electronic Edition, on 22 October 2018 at 5 pm.

No. S 697

SUPREME COURT OF JUDICATURE ACT (CHAPTER 322)

RULES OF COURT (AMENDMENT NO. 3) RULES 2018

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. 3) Rules 2018 and come into operation on 1 November 2018.

Amendment of Order 110

2. Order 110 of the Rules of Court (R 5) is amended —

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

““action” means an action mentioned in section 18D(1) of the Act and, where the context requires, includes any proceedings mentioned in section 18D(2) of the Act;”;

(b) by deleting paragraph (c) of the definition of “counsel” in Rule 1(1) and substituting the following paragraph:

“(c) a registered foreign lawyer who is granted full registration under section 36P of the Legal Profession Act;”;

(c) by deleting the definition of “offshore case” in Rule 1(1) and substituting the following definition:

““offshore case” means an action that has no substantial connection with Singapore, but does not include any of the following:

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- (a) any proceedings under the International Arbitration Act (Cap. 143A) that are commenced by way of any originating process;
- (b) an action in rem (against a ship or any other property) under the High Court (Admiralty Jurisdiction) Act (Cap. 123);”;
- (d) by deleting the definition of “pre-action certificate” in Rule 1(1);
- (e) by deleting the full-stop at the end of the definition of “registered foreign lawyer” in Rule 1(1) and substituting a semi-colon, and by inserting immediately thereafter the following definitions:
- ““registered law expert” means a law expert registered under section 36PA of the Legal Profession Act;
- “restricted registration foreign lawyer” means a registered foreign lawyer who is granted restricted registration under section 36P of the Legal Profession Act.”;
- (f) by inserting, immediately after the words “these Rules” in Rule 1(4), the words “(other than the excluded provisions)”;
- (g) by inserting, immediately after paragraph (4) of Rule 1, the following paragraphs:
- “(5) For the purposes of paragraph (4), the excluded provisions are as follows:
- (a) Order 22, Rule 10;
- (b) Order 31;
- (c) Order 39, Rule 3(6);
- (d) Order 47, Rule 5(b);
- (e) Order 50, Rule 4(2);

- (f) Order 55D;
- (g) Order 57, Rules 3(3)(b) and 16(5)(b);
- (h) Order 59;
- (i) Order 63A, Rule 6(1) and (2);
- (j) Order 64, Rule 5(4) and (5);
- (k) Order 67, Rule 7(3)(b);
- (l) Orders 70, 72, 73, 81, 83 and 88;
- (m) Order 90, Rule 13;
- (n) Orders 93, 94, 97 and 103;
- (o) Order 105, Rule 7(3)(b);
- (p) Order 109.

(6) Paragraph (4) does not apply to any reference in Order 57, Rules 9(4A), 11(2) and (3) and 16(8) and (9) to a solicitor's undertaking.

(7) In relation to proceedings in the Court or to an appeal from the Court —

- (a) any reference in Order 6, Rule 2(1)(e), Order 12, Rule 2(3)(b) and Order 18, Rule 6(4)(b) to a business address of a solicitor acting for a person is to be construed, if the counsel acting for the person is not an advocate and solicitor, as a reference to either of the following:
 - (i) the business address (whether in Singapore or elsewhere) and the email address, collectively, of the counsel;
 - (ii) the address in Singapore of an advocate and solicitor who has been instructed to accept service on behalf of the person;

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- (b) any reference in Order 6, Rule 2(2)(a) and Order 62, Rule 6(2)(a) to a business address of a solicitor acting for a person is to be construed, if the counsel acting for the person is not an advocate and solicitor, as a reference to any of the following:
- (i) the business address (whether in Singapore or elsewhere) of the counsel;
 - (ii) the email address of the counsel;
 - (iii) the address in Singapore of an advocate and solicitor who has been instructed to accept service on behalf of the person; and
- (c) any reference in Order 64, Rule 4(1) to a solicitor who acted for a party, and who has been struck off the roll of solicitors or has been suspended from practising, is to be construed as a reference to a counsel who acted for the party, and —
- (i) if the counsel is a person admitted to practise as an advocate and solicitor under section 15 of the Legal Profession Act — against whom an order under section 83(2A)(a) or (b) of that Act has been made; or
 - (ii) if the counsel is a registered foreign lawyer — whose registration under section 36P of the Legal Profession Act has been cancelled or suspended.”;
- (h) by deleting the words “Rules 47 and 48” in Rule 2 and substituting the words “Rules 47, 48 and 56”;
- (i) by deleting the word “to —” in Rule 2 and substituting the words “to the following proceedings:”;

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- (j) by inserting, immediately after the words “Rule 12” in Rule 2(b), the words “or 58”;
 - (k) by deleting the word “and” at the end of Rule 2(c);
 - (l) by inserting, immediately after the word “Application” in the Rule heading of Rule 2, the words “of Order”;
 - (m) by deleting Rule 3 and substituting the following Rule:

“Application of Rules of Court (O. 110, r. 3)

3.—(1) Subject to this Order, the provisions of these Rules apply to all proceedings in the Court and all appeals from the Court.

(2) Despite any provision of these Rules but subject to paragraph (3), the Court may, if it considers that doing so is necessary or desirable for the just, expeditious and economical disposal of any proceedings in the Court —

(a) make such order as the Court considers just and appropriate; or

(b) set aside, amend or supplement any of the following:

(i) any order made under sub-paragraph (a);

(ii) any order amended under this sub-paragraph;

(iii) any supplementary order made under this sub-paragraph.

(3) Where any provision of these Rules makes the exercise of a power by the Court conditional on a party agreeing or consenting to the exercise of that power by the Court, paragraph (2) does not authorise the Court to exercise that power without the agreement or consent of that party.”;

- (n) by deleting sub-paragraph (a) of Rule 4(5);

(o) by deleting the words “, unless this is certified in a pre-action certificate” in Rule 4(5)(b);

(p) by deleting paragraph (7) of Rule 4 and substituting the following paragraph:

“(7) The plaintiff may, in addition to filing the plaintiff’s declaration, file an offshore case declaration.”;

(q) by deleting the words “paragraphs (2), (3) and (4)” in Rule 6(1) and substituting the words “paragraphs (2), (2A), (3) and (4)”;

(r) by inserting, immediately after paragraph (2) of Rule 6, the following paragraph:

“(2A) Leave under Order 69A, Rule 4 is not required for the service of an originating summons outside of Singapore on a party to a written jurisdiction agreement.”;

(s) by deleting paragraph (4) of Rule 6 and substituting the following paragraph:

“(4) Paragraphs (2) and (2A) do not affect the Court’s power to decline to assume jurisdiction under Rule 8 or to consider its jurisdiction under Rule 10.”;

(t) by inserting, immediately after Rule 6, the following Rule:

“Service of summons, notice or order out of Singapore (O. 110, r. 6A)

6A.—(1) Leave under Order 11, Rule 8 is not required for the service out of Singapore of any summons, notice or order issued, given or made, in any proceedings to which this Order applies, on a party to a written jurisdiction agreement.

(2) Leave under Order 69A, Rule 4 is not required for the service out of Singapore of any order made, in any proceedings to which this Order applies, on a party to a written jurisdiction agreement.

(3) Paragraphs (1) and (2) do not affect the Court’s power to decline to assume jurisdiction under Rule 8 or to consider its jurisdiction under Rule 10.”;

- (u) by deleting the words “The Court has the jurisdiction to hear and try an action if —” in Rule 7(1) and substituting the words “For the purposes of section 18D(1)(c) of the Act, the other conditions that an action (not being proceedings relating to international commercial arbitration that the Court has jurisdiction to hear under section 18D(2) of the Act) must satisfy are as follows:”;
- (v) by deleting the words “In addition to paragraph (1)” in Rule 7(2) and substituting the words “To avoid doubt”;
- (w) by inserting, immediately after the words “Rule 12” in Rule 7(2)(a), the words “or 58”;
- (x) by deleting paragraph (1) of Rule 8 and substituting the following paragraph:

“(1) Subject to paragraph (2) and Rule 12(5)(a), the Court may decline to assume jurisdiction under section 18D(1) or (2) of the Act if it is not appropriate for the action to be heard by the Court.”;
- (y) by deleting the words “, a person may, subject to paragraph (2),” in Rule 9(1) and substituting the words “or 58, a person may”;
- (z) by deleting paragraph (2) of Rule 10;
- (za) by deleting sub-paragraph (b) of Rule 11(1);
- (zb) by deleting sub-paragraph (a) of Rule 11(2);
- (zc) by deleting the word “requirements” in Rule 12(3B)(a)(i) and (4)(a)(i) and substituting in each case the word “conditions”;
- (zd) by inserting, immediately after the words “Rule 12” in Rule 13(1), the words “or 58”;
- (ze) by inserting, immediately after the words “Rule 12(3), (3B) or (4)” in Rule 13(3)(a), the words “or 58”;

- (zf) by deleting the words “to the Court and” in Rule 14(1);
- (zg) by deleting the words “the Court and” in Rule 14(2);
- (zh) by inserting, immediately after Rule 21, the following Rule:

“Court may dispense with discovery, inspection or production of documents (O. 110, r. 21A)

21A.—(1) If the Court, with the consent of the parties, so orders, Rules 14 to 20 and Order 24 (discovery and inspection of documents) do not apply to proceedings in the Court.

(2) When the Court makes an order under paragraph (1) in any proceedings in the Court, that order takes precedence over —

(a) any earlier order made under Order 24 by the High Court in those proceedings before those proceedings were transferred to the Court; and

(b) any earlier order made under Rules 14 to 20, or under Order 24, by the Court.

(3) After the Court has made an order under paragraph (1) in any proceedings in the Court, if the Court, with the consent of the parties, makes an order for Rules 14 to 20 or Order 24 to apply to those proceedings, those Rules or that Order (as the case may be) will apply to those proceedings.”;

- (zi) by deleting paragraph (2) of Rule 25 and substituting the following paragraphs:

“(2) Before making an order under paragraph (1), the Court must be satisfied that each party is or will be represented by a counsel, restricted registration foreign lawyer or registered law expert who is suitable and competent to submit on the relevant questions of foreign law.

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- (2A) For the purposes of satisfying the Court under paragraph (2) that a counsel, restricted registration foreign lawyer or registered law expert who represents or will represent a party is suitable, the Court may require that party to provide evidence attesting to the suitability of the counsel, restricted registration foreign lawyer or registered law expert (including evidence of good standing).”;
- (zj) by inserting, immediately after the words “section 36P” in Rules 25(4)(c), 27(1)(a)(iii) and 28(2)(d)(i)(C) and (e), the words “or 36PA”;
- (zk) by deleting the words “all other parties (or their counsel)” in Rule 28(3) and substituting the words “every other party (or that party’s counsel, restricted registration foreign lawyer or registered law expert)”;
- (zl) by inserting, immediately after the words “each counsel” in Rule 28(3), the words “, restricted registration foreign lawyer or registered law expert”;
- (zm) by deleting paragraphs (3) and (13) of Rule 30;
- (zn) by deleting the words “Subject to paragraph (13), the” in Rule 30(12) and substituting the word “The”;
- (zo) by inserting, immediately after the words “registered foreign lawyer” in Rule 32(a), the words “, by a registered law expert”;
- (zp) by inserting, immediately after the words “registered foreign lawyer” in the rule heading of Rule 32, the words “, by registered law expert”;
- (zq) by deleting the word “or” at the end of Rule 33(2)(a)(ii);
- (zr) by deleting the full-stop at the end of sub-paragraph (b) of Rule 33(2) and substituting the word “; or”, and by inserting immediately thereafter the following sub-paragraph:

“(c) by any party to the proceedings in the Court, whenever that party appoints any additional counsel to act for that party.”;

(zs) by inserting, immediately after paragraph (2) of Rule 33, the following paragraph:

“(2A) Despite paragraphs (1) and (2)(b)(i), where any proceedings are transferred to the Court, a party to those proceedings at the time of the transfer need not file the notice in paragraph (1) upon the transfer, if that party did not change counsel after the transfer.”;

(zt) by deleting paragraph (a) of Rule 34;

(zu) by deleting paragraph (1) of Rule 35 and substituting the following paragraph:

“(1) A party to an action may file an offshore case declaration in accordance with this Rule.”;

(zv) by deleting paragraph (4) of Rule 37;

(zw) by deleting Rules 38 to 44 (including the sub-heading immediately before Rule 38);

(zx) by deleting the word “counsel” in Rule 46(3)(c) and substituting the words “a counsel, restricted registration foreign lawyer or registered law expert”.

(zy) by deleting item 1 of the table below Rule 47(2);

(zz) by deleting item 1 of the table below Rule 48(2);

(zza) by deleting the word “or” at the end of Rule 49(1)(a);

(zzb) by deleting the full-stop at the end of sub-paragraph (b) of Rule 49(1) and substituting the word “; or”, and by inserting immediately thereafter the following sub-paragraph:

“(c) where sub-paragraphs (a) and (b) do not apply — the Registrar directs the party to pay the deposit.”;

(*zzc*) by inserting, immediately after paragraph (2A) of Rule 49, the following paragraph:

“(2B) Where paragraph (1)(*c*) applies, the deposit must be paid within 14 days after the Registrar directs the party to pay the deposit.”; and

(*zzd*) by inserting, immediately after Rule 55, the following sub-heading and Rules:

“PROCEEDINGS UNDER
INTERNATIONAL ARBITRATION ACT

**Application of Order to proceedings under
International Arbitration Act, etc. (O. 110, r. 56)**

56.—(1) The following provisions of this Order do not apply to proceedings under the International Arbitration Act that are heard by the Court:

- (*a*) Rule 1(2)(*a*) and (*b*);
- (*b*) Rule 4(4) to (7);
- (*c*) Rule 7(1);
- (*d*) Rule 9(2);
- (*e*) Rule 12(3B), (4), (4A) and (4B);
- (*f*) Rule 30;
- (*g*) Rules 34 to 37.

(2) To avoid doubt —

- (*a*) sections 22 and 23 of the International Arbitration Act apply to proceedings under that Act that are heard by the Court; and
- (*b*) any offshore case declaration filed under Rule 35 in relation to any proceedings under the International Arbitration Act is of no effect.

**Jurisdiction to hear proceedings under
International Arbitration Act (O. 110, r. 57)**

57.—(1) For the purposes of section 18D(2) of the Act, the only condition that any proceedings relating to international commercial arbitration that are commenced by way of any originating process must satisfy is that those proceedings must be proceedings that the High Court may hear under the International Arbitration Act.

(2) For the purposes of determining whether any proceedings are “proceedings relating to international commercial arbitration” under section 18D(2) of the Act —

- (a) the arbitration is international only if it is international within the meaning of section 5(2) of the International Arbitration Act;
- (b) a court may consider the interpretation of “commercial” in the UNCITRAL Model Law on International Commercial Arbitration, as stated in the note † in Article 1(1) of that Model Law set out in the First Schedule to the International Arbitration Act; and
- (c) a commercial arbitration —
 - (i) includes, but is not limited to, an arbitration arising out of an investment, whether arising out of any contract, treaty, statute or other instrument; and
 - (ii) may include an arbitration between a State (or any constituent subdivision or agency of a State) and a national of another State.

Transfer from High Court to Court (O. 110, r. 58)

58.—(1) Any proceedings relating to international commercial arbitration, that are commenced in the High Court by way of any originating process, may be transferred from the High Court to the Court only if —

(a) the High Court considers that the condition in Rule 57(1) is met; and

(b) either —

(i) a party has, with the consent of all other parties, applied for the transfer in accordance with Rule 13; or

(ii) the High Court, after hearing the parties, orders the transfer on its own motion.

(2) Rule 12(5) applies where the High Court transfers proceedings to the Court under this Rule.”.

Amendment of Appendix A

3. Appendix A to the Rules of Court is amended by deleting Forms 251 and 252 and substituting the following Forms:

“ 251.
O. 110, NOTICE OF COUNSEL
r. 33(2)
(Title as in action)

To the Registrar,

Take notice that (name of counsel), of , has/have* been appointed to act as counsel for the abovenamed plaintiff/plaintiffs/defendant/defendants* (if for one or more of several defendants, name the defendant or defendants) in this action.

(Name of counsel) is —

(a) an advocate and solicitor of the Supreme Court who is/is not* registered under section 36E of the Legal Profession Act, and who

BELINDA ANG SAW EAN
Judge.

QUENTIN LOH
Judge.

VINODH COOMARASWAMY
Judge.

SEE KEE OON
Presiding Judge of the State Courts.

JAMES LEONG
District Judge.

FRANCIS XAVIER, SC
Advocate and Solicitor.

KUAH BOON THENG, SC
Advocate and Solicitor.

[SUPCT.RJW.013.0102; AG/LEGIS/SL/322/2015/1 Vol. 8]

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