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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