

Rules of Court (Amendment) Rules 2007

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No. S 228

SUPREME COURT OF JUDICATURE ACT (CHAPTER 322)

RULES OF COURT (AMENDMENT) RULES 2007

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) Rules 2007 and shall come into operation on 1st July 2007.

Deletion and substitution of Order 97

2. The Rules of Court (R 5) (referred to in these Rules as the principal Rules) are amended by deleting Order 97 and substituting the new Order 97 as set out in the First Schedule.

Amendment of Orders

3. The provisions of the principal Rules specified in the first column of the Second Schedule are amended in the manner set out in the second column thereof.

Amendment of Appendix A

4. Appendix A of the principal Rules is amended —

- (a) by deleting Form 116 and substituting the new Form 116 as set out in the Third Schedule; and
- (b) by deleting Form 227 and substituting the new Form 227 as set out in the Fourth Schedule.

FIRST SCHEDULE

Rule 2

ORDER 97

APPLICATIONS UNDER SECTION 85 OF THE COMPETITION ACT

Powers under relevant Acts exercisable by Judge or Registrar (O. 97, r. 1)

1.—(1) Subject to paragraph (2), the powers conferred on the District Court by section 85 of the Competition Act (Chapter 50B) (referred to in this Order as the Act) may be exercised by a District Judge in Chambers or the Registrar.

(2) The powers conferred on the District Court by section 85(3) of the Act may only be exercised by a District Judge.

Application for registration (O. 97, r. 2)

2. An application for the registration in the District Court of —

- (a) any commitment accepted by the Competition Commission of Singapore under section 60A

of the Act (referred to as a Commitment);

(b) any direction made by the Competition Commission of Singapore pursuant to section 58A, 67 or 69 of the Act (referred to as a Direction); or

(c) any decision made by the Competition Appeal Board (referred to as a Decision),

must be made by an ex parte originating summons.

Evidence in support of application for registration (O. 97, r. 3)

3. An application for registration must be supported by an affidavit —

(a) exhibiting the Commitment, Direction or Decision sought to be registered or a verified or certified or otherwise duly authenticated copy thereof;

(b) stating the name, trade or business and the usual or last known place of residence or business of —

(i) the party seeking to register the Commitment, Direction or Decision;

(ii) the party who provided the Commitment or against whom the Direction or Decision has been made, as the case may be, so far as known to the deponent; and

(c) stating to the best of the information or belief of the deponent that —

(i) the party applying for the registration of the Commitment, Direction or Decision is entitled to enforce the Commitment, Direction or Decision, as the case may be;

(ii) as at the date of the application, the Commitment, Direction or Decision has not been complied with; and

(iii) the amount of financial penalty imposed thereunder which remains unsatisfied, if applicable.

Security for costs (O. 97, r. 4)

4. The Court may order the party applying for the registration of the Commitment, Direction or Decision to give security for the costs of the application and of any proceedings which may be brought to set aside the registration.

Order for registration (O. 97, r. 5)

5.—(1) An order in Form 227 to register a Commitment, Direction or Decision must be drawn up by, or on behalf of, the party applying to register the Commitment, Direction or Decision and —

(a) in the case of a Commitment, served on the party who provided the Commitment; or

(b) in the case of a Direction or Decision, served on the party against whom the Direction or Decision has been made.

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

(3) Any application to extend the period to set aside the registration of the Commitment, 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 Commitments, Directions and Decisions (O. 97, r. 6)

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

Notice of registration (O. 97, r. 7)

7.—(1) Notice of the registration of a Commitment, Direction or Decision must be served on the party who provided the Commitment or against whom the Direction or Decision has been made, as the case may be, 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 Commitment, Direction or Decision registered and the order for registration;
- (b) the name and address of the party seeking to enforce the Commitment, Direction or Decision or of his solicitor on whom, and at which, any summons issued by the party who provided the Commitment or against whom the Direction or Decision has been made, as the case may be, may be served;
- (c) that the party who provided the Commitment or against whom the Direction or Decision has been made, as the case may be, 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. 97, 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 Commitment, Direction or Decision may not issue execution on the Commitment, Direction or Decision to which the notice relates 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. 97, r. 9)

9.—(1) An application to set aside the registration of a Commitment, 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 Competition Commission of Singapore and the party who provided the Commitment or against whom the Direction or Decision has been made, as the case may be; or
- (b) the party who has obtained a Decision and the party against whom a Decision has been 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 Commitment, Direction or Decision may order the registration of the Commitment, Direction or Decision to be set aside on such terms as it thinks fit.

Issue of execution (O. 97, r. 10)

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

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

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

Application for order under section 85 (3) (O. 97, r. 11)

11.—(1) An application for any order specified in section 85(3) of the Act —

- (a) may be made together with or at any time after an application for registration under Rule 2; and
- (b) shall not constitute execution on the Commitment, 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.

SECOND SCHEDULE