Family Justice Rules 2014

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No. S 813

FAMILY JUSTICE ACT 2014
(ACT 27 OF 2014)

FAMILY JUSTICE RULES 2014

In exercise of the powers conferred on us by section 46 of the Family Justice Act 2014, we, the Family Justice Rules Committee, hereby make the following Rules:

PART 1

PRELIMINARY

Division 1 — Citation, application, definitions and forms

Citation and commencement

1. These Rules may be cited as the Family Justice Rules 2014 and shall come into operation on 1 January 2015.

Application

2. Except as otherwise provided in these Rules, these Rules apply to all proceedings in the Family Division of the High Court, the Family Courts and the Youth Courts, whether such proceedings are commenced before, on or after 1 January 2015, in so far as the matters to which these Rules relate are within the jurisdiction of those Courts.

Definitions

3.—(1) In these Rules, unless the context otherwise requires —

"attend" includes the appearance by any person using electronic, mechanical or other means permitted by the Court;

"bailiff" includes the Registrar and any clerk or other officer of the Family Justice Courts charged with the duties of a bailiff in the Family Justice Courts;

"Civil Procedure Convention" means the conventions set out in the First Schedule, and includes any convention, treaty or agreement of any description or any provision of such convention, treaty or agreement between different States relating to civil procedure in the court;

"District Judge" means a District Judge who is designated by the Chief Justice as a judge of the Family Court under section 13 of the Act;

"family proceedings" has the same meaning as in section 2(1) of the Act;

"folio" means 100 words, each figure being counted as one word;

"Judge" means a judge of the Family Division of the High Court, a judge of a Family Court or a judge of a Youth Court and includes, in cases where he is empowered to act, a Registrar, as the case may require;

"Magistrate" means a Magistrate who is designated by the Chief Justice as a judge of the Family Court under section 13 of the Act;

"officer" means an officer of the Family Justice Courts;

"originating process" means a writ of summons or an originating summons;

"originating summons" means every summons for the commencement of proceedings other than a writ of summons;

"pleading" does not include an originating summons, a summons or a preliminary act;

"practice directions" means any practice directions for the time being issued by the Registrar;

"receiver" includes a manager or consignee;

"Registry" means the Registry of the Family Justice Courts;

"scheduled territories" has the meaning assigned to it by the Exchange Control Act (Cap. 99);

"sign", in relation to the signing of documents by a Judge, Registrar or other officer of the Family Justice Courts, includes the affixing of a facsimile signature of the Judge, Registrar or other officer, as the case may be;

"solicitor" has the same meaning as in the Legal Profession Act (Cap. 161) and includes the Attorney-General where he is a party to or appears on behalf of the Government in any proceedings;

"summons" means every summons in a pending cause or matter;

"working day" means any day other than a Saturday, Sunday or public holiday;

"writ" means a writ of summons.

(2) In these Rules, unless the context otherwise requires, "Court" —

(*a*) means the Family Division of the High Court, a Family Court or a Youth Court, or a judge of the Family Division of the High Court, a judge of a Family Court or a judge of a Youth Court, whether sitting in Court or in Chambers; and

(*b*) includes in cases where he is empowered to act, the Registrar.

(3) Paragraph (2) shall not be taken as affecting any provision of these Rules and, in particular, rule 552, which defines and regulates the authority and jurisdiction of the Registrar.

(4) For the purposes of these Rules, a person who has attained 18 years of age but who is below 21 years old, and who is not otherwise under any legal disability, shall not be considered to be a minor or a person under disability in relation to any legal proceeding or action which, by virtue of section 36 of the Civil Law Act (Cap. 43), he may, in his own name and without a litigation representative[3], bring, defend, conduct or intervene in as if he were of full age.

Construction of references to provisions of Rules, etc.

4.—(1) Any reference in these Rules to anything done under a provision of these Rules (called in this rule the relevant provision) includes a reference to the same thing done before the commencement of the relevant provision under any corresponding provision of the Rules of Court (Cap. 322, R 5), Women's Charter (Matrimonial Proceedings) Rules (Cap. 353, R 4) or Women's Charter (Garnishee Proceedings) Rules (Cap. 353, R 6), as the case may be, ceasing to have effect on the commencement of the relevant provision.

(2) Except where the context otherwise requires, any reference in these Rules to any written law is to be construed as a reference to that written law as amended, extended or applied by or under any other written law.

Construction of references to action, etc., for possession of immovable property

5. Except where the context otherwise requires, references in these Rules to an action or a claim for the possession of immovable property are to be construed as including references to proceedings against the Government for an order declaring that the plaintiff

is entitled as against the Government to the immovable property or to possession of the immovable property.

Forms

6.—(1) In these Rules —

(*a*) any reference to a form by a number is to be construed as a reference to the current version of the form bearing that number set out in the practice directions; and

(*b*) any reference to a "relevant Form" for any purpose for which a specific form is required to be used means the current version of the relevant form for that purpose set out in the practice directions.

(2) Subject to rule 920(5), the forms set out in the practice directions must, where applicable, be used, with such variations as the circumstances of the particular case require.

Practice directions

7. Practice directions may make additional provisions in relation to the requirements for any application in the Family Justice Courts which is specified in those practice directions.

Endnotes

8. Where any expression in these Rules is marked with an endnote number (for example — "attestation[6]"), the endnote bearing the corresponding number in the Second Schedule will apply in relation to that expression.

Construction of references to party, etc., in person

9.—(1) In these Rules, for the purposes of any relevant matter or proceeding, unless the context otherwise requires —

(*a*) a reference to a person, plaintiff or party who sues or acts in person, to a defendant or party who appears, defends or acts in person, to an appellant or a respondent who appears, who does not or fails to appear or who acts in person, or to a litigant in person includes a reference to —

(i) a company or limited liability partnership represented by an officer of the company or limited liability partnership pursuant to leave given by the Court under paragraph (2);

(ii) an unincorporated association (other than a partnership or a registered trade union) represented by an officer of the unincorporated association pursuant to leave given by the Court under paragraph (3); or

(iii) a registered trade union represented by an officer of the trade union pursuant to section 26(6) of the Trade Unions Act (Cap. 333); and

(*b*) a reference to the doing of any thing by any such person, plaintiff, party, defendant, appellant, respondent or litigant (called in this sub-paragraph the specified person) includes —

(i) in any case where the specified person is a company or limited liability partnership referred to in sub-paragraph (*a*)(i), a reference to the doing of that thing by the officer of the company or limited liability partnership referred to in that sub-paragraph;

(ii) in any case where the specified person is an unincorporated association referred to in sub-paragraph (*a*)(ii), a reference to the doing of that thing by the officer of the unincorporated association referred to in that sub-paragraph; or

(iii) in any case where the specified person is a registered trade union, a reference to the doing of that thing by an officer of the registered trade union.

(2) For the purposes of section 34(1)(*ea*) of the Legal Profession Act (Cap. 161) and paragraph (1), the Court may, on an application by a company or a limited liability partnership, give leave for an officer of the company or limited liability partnership to act on its behalf in any relevant matter or proceeding to which the company or limited liability partnership is a party, if the Court is satisfied that —

(*a*) the officer has been duly authorised by the company or limited liability partnership to act on its behalf in that matter or proceeding; and

(*b*) it is appropriate to give such leave in the circumstances of the case.

(3) For the purposes of section 34(1)(*eb*) of the Legal Profession Act and paragraph (1), the Court may, on an application by an unincorporated association (other than a partnership or a registered trade union), give leave for an officer of the unincorporated association to act on its behalf in any relevant matter or proceeding to which the unincorporated association is a party, if the Court is satisfied that —

(*a*) the officer has been duly authorised by the unincorporated association to act on its behalf in that matter or proceeding; and

(*b*) it is appropriate to give such leave in the circumstances of the case.

(4) An application under paragraph (2) or (3) must be supported by an affidavit —

(*a*) stating —

(i) the position or office in the company, limited liability partnership or unincorporated association held by the officer;

(ii) the date on which, and the manner by which, the officer was authorised to act on behalf of the company, limited liability partnership or unincorporated association in that matter or proceeding; and

(iii) the reasons why leave should be given for the officer to act on behalf of the company, limited liability partnership or unincorporated association in that matter or proceeding;

(*b*) exhibiting a copy of any document of the company, limited liability partnership or unincorporated association by which the officer was authorised to act on its behalf in that matter or proceeding; and

(*c*) made by any other officer of the company, limited liability partnership or unincorporated association.

(5) For the purposes of section 34(1)(*ea*) and (*eb*) and (3) of the Legal Profession Act and in this rule, "relevant matter or proceeding" means —

(*a*) any matter or proceeding commenced in the Family Division of the High Court and any appeal from that matter or proceeding;

(*b*) any matter or proceeding commenced in a Family Court and any appeal from that matter or proceeding;

(*c*) any appeal commenced in the Family Division of the High Court from any family proceedings commenced in a District Court; and

(*d*) any appeal commenced in the Family Division of the High Court from any family proceedings commenced in a Magistrate's Court,

whether or not that matter, proceeding or appeal was commenced before, on or after 1 January 2015.

(6) In this rule —

"company" means a company incorporated under the Companies Act (Cap. 50);

"Court" means —

(*a*) the Court of Appeal, if the relevant matter or proceeding is any appeal referred to in paragraph (5)(*a*) to the Court of Appeal, in respect of which no leave has been given under paragraph (2) or (3), or under Order 1, Rule 9(2) or (3) of the Rules of Court, by a court below;

(*b*) the High Court, if the relevant matter or proceeding is —

(i) any matter, proceeding or appeal referred to in paragraph (5)(*a*); or

(ii) any appeal referred to in paragraph (5)(*b*), (*c*) or (*d*) to the High Court, in respect of which no leave has been given under paragraph (2) or (3), or under Order 1, Rule 9(2) or (3) of the Rules of Court, by a court below; or

(*c*) a Family Court, if the relevant matter or proceeding is any matter, proceeding or appeal referred to in paragraph (5)(*b*);

"limited liability partnership" means a limited liability partnership registered under the Limited Liability Partnerships Act (Cap. 163A);

"manager", in relation to a limited liability partnership, has the same meaning as in the Limited Liability Partnerships Act;

"officer" —

(*a*) in relation to a company, means any director or secretary of the company, or a person employed in an executive capacity by the company;

(*b*) in relation to a limited liability partnership, means any partner in or manager of the limited liability partnership;

(*c*) in relation to an unincorporated association (other than a partnership or a registered trade union), means the president, the secretary, or any member of the committee of the unincorporated association; or

(*d*) in relation to a registered trade union, has the same meaning as in the Trade Unions Act;

"partner", in relation to a limited liability partnership, has the same meaning as in

the Limited Liability Partnerships Act;

"registered trade union" has the same meaning as in the Trade Unions Act.

Division 2 — Effect of non-compliance

Non-compliance with Rules

10.—(1) Where, in beginning or purporting to begin any proceedings or at any stage in the course of or in connection with any proceedings, there has, by reason of anything done or left undone, been a failure to comply with any requirements of these Rules, the failure —

(*a*) shall be treated as an irregularity; and

(*b*) shall not nullify the proceedings, any step taken in the proceedings, or any document, judgment or order in the proceedings.

(2) Subject to paragraph (4), the Court may, on the ground that there has been a failure referred to in paragraph (1) —

(*a*) set aside either wholly or in part the proceedings in which the failure occurred, any step taken in those proceedings or any document, judgment or order in those proceedings, or exercise its powers under these Rules to allow such amendments (if any) to be made; and

(*b*) make such order (if any) dealing with the proceedings generally as it thinks fit.

(3) The Court may make an order under paragraph (2) on such terms as to costs or otherwise as it thinks just.

(4) The Court must not wholly set aside any proceedings or the originating process by which the proceedings were begun on the ground that the proceedings were required by these Rules to be begun by some other originating process.

Application to set aside for irregularity

11.—(1) An application to set aside for irregularity of any proceedings, any step taken in any proceedings, or any document, judgment or order in any proceedings, shall not be allowed unless the application is made —

(*a*) within a reasonable time; and

(*b*) before the party applying has taken any fresh step after becoming aware of the irregularity.

(2) An application under this rule may be made by summons and the grounds of objection must be stated in the summons or supporting affidavit.

Division 3 — Time

"Month" means calendar month

12. Without prejudice to the Interpretation Act (Cap. 1), in its application to these Rules, the word "month", where it occurs in any judgment, order, direction or other document forming part of any proceedings in Court, means a calendar month unless the context otherwise requires.

Reckoning periods of time

13.—(1) Any period of time fixed by these Rules or by any judgment, order or direction for doing any act shall be reckoned in accordance with this rule.

(2) Where the act is required to be done within a specified period after or from a specified date, the period begins immediately after that date.

(3) Where the act is required to be done within or not less than a specified period before a specified date, the period ends immediately before that date.

(4) Where the act is required to be done a specified number of clear days before or after a specified date, at least that number of days must intervene between the day on which the act is done and that date.

(5) Where, apart from this paragraph, the period in question, being a period of 7 days or less, would include a day other than a working day, that day shall be excluded.

Time expires on day other than working day

14. Where the time prescribed by these Rules, or by any judgment, order or direction, for doing any act expires on a day other than a working day, the act shall be in time if done on the next working day.

Extension, etc., of time

15.—(1) The Court may, on such terms as it thinks just, extend or abridge the period within which a person is required or authorised by these Rules or by any judgment, order

or direction, to do any act in any proceedings.

(2) The Court may extend any such period referred to in paragraph (1) although the application for extension is not made until after the expiration of that period.

(3) The period within which a person is required by these Rules, or by any order or direction, to serve, file or amend any pleading or other document may be extended by written consent without an order of Court, unless the Court specifies otherwise.

(4) Paragraph (3) shall not apply to the period within which —

(*a*) any action or matter is required to be set down for trial or hearing; or

(*b*) any notice of appeal is required to be filed.

PART 2

MODE OF COMMENCEMENT OF PROCEEDINGS

Mode of commencement of proceedings

16. Except in the case of proceedings which by these Rules or by or under any written law are required to be begun by any specified mode of commencement, proceedings may be begun either by writ or by originating summons.

Proceedings which must be begun by writ

17.—(1) Proceedings in which a substantial dispute of fact is likely to arise must be begun by writ.

(2) Without prejudice to the generality of these Rules, the following proceedings must be begun by writ:

(*a*) proceedings for divorce under Part X of the Women's Charter (Cap. 353);

(*b*) probate actions under Division 2 of Part 14.

Proceedings which must be begun by originating summons

18.—(1) Proceedings by which an application is to be made to the Court or a Judge of the Court under any written law must be begun by originating summons.

(2) Without prejudice to the generality of these Rules, the following proceedings must be begun by originating summons:

(*a*) an application for an adoption order under the Adoption of Children Act (Cap. 4);

(*b*) an application under the Guardianship of Infants Act (Cap. 122) in respect of any infant, where there is no pending action or other proceedings by reason of which the infant is a ward of the Court;

(*c*) an application under section 3 of the Inheritance (Family Provision) Act (Cap. 138);

(*d*) an application under Part III of the International Child Abduction Act (Cap. 143C), unless otherwise provided in that Act;

(*e*) an application under section 4 of the Legitimacy Act (Cap. 162);

(*f*) an application under the Mental Capacity Act (Cap. 177A), unless otherwise provided in that Act;

(*g*) an application for a grant of probate;

(*h*) an application under section 10 or 15 of the Status of Children (Assisted Reproduction Technology) Act 2013 (Act 16 of 2013), unless otherwise provided in that Act;

(*i*) an application for the disposition or division of property on divorce pursuant to section 17A(2)(*c*) of the Supreme Court of Judicature Act (Cap. 322);

(*j*) an application under section 3(2)(*d*) or (*e*) of the Voluntary Sterilization Act (Cap. 347);

(*k*) an application for an order under section 59 of the Women's Charter (Cap. 353);

(*l*) an application under section 121B of the Women's Charter for financial relief under Chapter 4A of Part X of that Act;

(*m*) an application for leave under section 121D of the Women's Charter.

Proceedings which may be begun by writ or originating summons

19. The following proceedings may be begun by originating summons unless the plaintiff intends to apply for judgment under Division 8 of Part 18 in those proceedings or for any other reason considers the proceedings more appropriate to be begun by writ:

(*a*) proceedings in which the sole or principal question at issue is, or is likely to be, one of the construction of any written law or of any instrument made under any written law, or of any deed, will, contract or other document, or some other question of law;

(*b*) proceedings in which there is unlikely to be any substantial dispute of fact.

Proceedings which must be made in same manner as application for summons under Criminal Procedure Code

20.—(1) The applications referred to in paragraph (2) —

(*a*) are to be made in the same manner as an application for a summons is made to a District Court or Magistrate's Court under the Criminal Procedure Code (Cap. 68); and

(*b*) are to be dealt with as if each such application was a complaint for the purposes of that Code.

(2) For the purposes of paragraph (1), the applications are as follows:

(*a*) an application to a Family Court to enforce a maintenance order made under the Maintenance of Parents Act (Cap. 167B);

(*b*) an application to enforce a maintenance order which has been registered or confirmed under the Maintenance Orders (Facilities for Enforcement) Act (Cap. 168);

(*c*) a complaint made to a Family Court under section 4(1) of the Maintenance Orders (Reciprocal Enforcement) Act (Cap. 169);

(*d*) an application to a Family Court under Part VII or VIII of the Women's Charter (Cap. 353).

Right to sue in person

21.—(1) Subject to paragraphs (2) and (3) and rule 656, any person (whether or not he sues as a trustee or personal representative or in any other representative capacity) may begin and carry on proceedings in Court by a solicitor or in person.

(2) Subject to rule 9(2) and any other written law, and except in accordance with any practice directions, a body corporate may not begin or carry on any proceedings in Court otherwise than by a solicitor.

(3) Subject to rule 9(3) and any other written law, and except in accordance with any practice directions, an unincorporated association (other than a partnership) may not begin or carry on any proceedings in Court otherwise than by a solicitor.

PART 3

JUDGE-LED APPROACH IN RESOLVING FAMILY DISPUTES

Power to make orders and give directions for just, expeditious and economical disposal of proceedings

22.—(1) Despite anything in these Rules, the Court, when dealing with any cause or matter, is to adopt a judge-led approach —

(*a*) to identify the relevant issues in the cause or matter; and

(*b*) to ensure that the relevant evidence is adduced by the parties to the cause or matter.

(2) In adopting a judge-led approach, the Court may, at any time after the commencement or at the hearing of any proceedings, of its own motion or on an application by any party to the proceedings, direct any party or parties to those proceedings to appear before it, for the Court to make such order or give such direction as it thinks fit, for the just, expeditious and economical disposal of the cause or matter.

(3) The directions that the Court may give under paragraph (2) include directions on one or more of the following matters:

(*a*) that the party or parties to the proceedings attend mediation or counselling or participate in such family support programme or activity as the Court thinks fit;

(*b*) subject to any written law relating to the admissibility of evidence, that a party or witness adduce any evidence relevant to the proceedings;

(*c*) the giving of evidence orally or by affidavit;

(*d*) despite any other provisions in these Rules, to limit the number of affidavits filed by a party or witness;

(*e*) the order in which any speech or evidence by a party or witness (as the case may be) should be made or given;

(*f*) the time limited for giving oral testimony;

(*g*) the calling of a witness to give evidence with a view to assisting in the resolution or disposal of a cause or matter, whether or not any party to the proceedings will be calling that witness to give evidence for that party;

(*h*) the time limited for oral arguments;

(*i*) the length of any written submissions;

(*j*) subject to section 281 of the Criminal Procedure Code (Cap. 68) and section 62A of the Evidence Act (Cap. 97), the giving of evidence through a live video or live television link;

(*k*) subject to any written law or rule of law restricting the disclosure, or relating to the confidentiality, of any document or information —

(i) the disclosure of any document or information;

(ii) whether any document or information should be treated as confidential; and

(iii) whether any party to the proceedings may inspect any document.

(4) The Court may, in making orders or giving directions under paragraph (2), take into account whether or not a party has complied with any relevant pre-action protocol or practice directions.

(5) Where any party fails to comply with any order made or direction given by the Court under paragraph (2), the Court may —

(*a*) dismiss the action;

(*b*) strike out the defence or counterclaim; or

(*c*) make such other order as it thinks fit.

(6) The Court may, in exercising its powers under paragraph (2), make such order as to costs as it thinks fit.

(7) The Court may set aside or vary any judgment, order or direction given or made against any party who does not appear before the Court when directed to do so under paragraph (2), on such terms as it thinks just.

Case conferences

23.—(1) Without prejudice to rule 22, at any time before any action or proceedings are tried, the Court may direct parties to attend a case conference relating to the matters arising in the action or proceedings.

(2) At a case conference, the Court may —

(*a*) consider any matter including the possibility of settlement of all or any of the issues in the action or proceedings and require the parties to furnish the Court with any such information as it thinks fit; and

(*b*) give all such directions, including any directions under rule 22(3) as may be necessary or desirable for securing the just, expeditious and economical disposal of the action or proceedings.

(3) Where a party defaults in complying with any directions made by the Court under paragraph (2) or rule 24, the Court may, either on its own motion or upon the application of any party —

(*a*) dismiss the action or proceedings;

(*b*) strike out the defence or counterclaim;

(*c*) enter judgment; or

(*d*) make such order as it thinks fit.

(4) The Court may set aside any judgment or order made under paragraph (3), on the party's application, on such terms as it thinks just.

(5) Where, at any time during a case conference, the parties agree to a settlement of some or all of the matters in dispute in the action or proceedings, the Court may enter judgment in the action or proceedings or make such order to give effect to the settlement.

Notification of case conferences

24. All parties must be informed of the date and time appointed for the holding of a case conference by way of a notice in the relevant Form, and each party must comply with any directions contained in such notice.

Attendance at case conferences

25.—(1) A party to the action or proceedings may be represented at a case conference by the party's solicitor, if any.

(2) Despite paragraph (1), any party may, in addition to the party's solicitor, attend the case conference personally at the time originally appointed or as adjourned, with the leave of the Court.

Adjourned and subsequent case conferences

26. A case conference may be adjourned from time to time, either generally or to a particular date, as may be appropriate.

Failure to attend case conference

27.—(1) If one or more parties fail to attend a case conference at the time appointed for the case conference, the Court may —

(*a*) dismiss the action or proceedings;

(*b*) strike out the defence or counterclaim;

(*c*) enter judgment; or

(*d*) make such other order as the Court thinks fit.

(2) Where the Court makes an order in the absence of a party concerned or affected by the order, that party may apply to set aside the order.

(3) The Court may, on the application of a party under paragraph (2), set aside an order on such terms as it thinks just.

(4) Without prejudice to paragraphs (1), (2) and (3), where one or more of the parties to the action or proceedings fail to attend the case conference, the Court may, if it thinks fit, adjourn the case conference.

Non-disclosure

28. Subject to the law governing the admissibility of evidence at trial, no communication made in the course of a case conference in any action or proceedings shall be disclosed to the Court conducting the trial of the action or proceedings if such communication —

(*a*) has been stated by any of the parties to the action or proceedings to be "confidential" or "without prejudice"; or

(*b*) has been marked by the Registrar as being "confidential" or "without prejudice".

PART 4

PROVISIONS RELATING TO CHILDREN

Division 1 — Child representative

Definitions

29. In this Division —

"child" means a person who is below 21 years old;

"mental health professional" includes a psychologist, a psychiatrist and a counsellor.

Appointment of child representative

30.—(1) Where a child is a party to or a subject of any action or proceedings, or where any action or proceedings involves a child or the custody or welfare of a child, the Court may, on its own motion or on the application of any party to the action or proceedings, appoint a child representative for the child if the Court is of the opinion that it is in the best interests of the child to do so.

(2) An application under paragraph (1) must be made by summons and supported by an affidavit.

(3) The summons and supporting affidavit must be served on every party to the action or proceedings.

(4) The Court may, when appointing a child representative under paragraph (1), make such orders as it considers necessary to secure the independent representation of the child's interest.

Role of child representative

31.—(1) The child representative must —

(*a*) form an independent view, based on the evidence available to him, of what is in the best interests of the child; and

(*b*) act in what he believes to be in the best interests of the child.

(2) Subject to paragraph (1) and unless the Court otherwise directs, the child representative must, as far as possible and to the best of the child representative's ability —

(*a*) provide the child with the opportunity to express and clarify the child's views on the matters in the action or proceedings;

(*b*) ensure that the child can express the child's views free from the influence of any person;

(*c*) ensure that the child's views, as expressed by the child, are fully and accurately presented to the Court;

(*d*) ensure that the child has the opportunity to be advised about significant developments in the action or proceedings;

(*e*) bring to the Court's attention matters which are relevant to advancing the interests of the child, including information on the relationship between the child and any party to the action or proceedings;

(*f*) if the child representative is satisfied that the adoption of a particular course of action (which may include the examination or assessment of the child by a mental health professional) is in the best interests of the child, apply or propose to the Court to adopt that course of action;

(*g*) if any mental health professional is appointed, by the Court or otherwise, to examine or assess the child —

(i) liaise with that mental health professional; and

(ii) bring to the Court's attention any evaluation made by that mental health professional which has not already been disclosed to the Court;

(*h*) create and provide the opportunity for the child and the parties to the action or proceedings to resolve any issue or matter relating to the action or proceedings;

(*i*) facilitate the resolution of any such issue or matter in sub-paragraph (*h*) in a manner which is in the best interests of the child; and

(*j*) provide such information, support and assistance to the child as is necessary for the action or proceedings, as and when requested by the child.

(3) A child representative must inform the Court —

(*a*) of any matter or evidence relevant to the action or proceedings which the child representative is aware of, if doing so is in the best interests of the child, and even if there is any objection from the child or from any party to the action or proceedings; and

(*b*) of any objection referred to in sub-paragraph (*a*).

(4) The child representative may —

(*a*) personally provide the information, support and assistance referred to in paragraph (2)(*j*); or

(*b*) with the approval of the Court, arrange for the information, support and assistance to be provided by another person who is qualified to do so.

Written submissions of child representative

32.—(1) Unless the Court otherwise orders, the child representative must file a written submission to the Court, signed by the child representative, on the matters referred to in rule 31(2) and (3), together with any supporting documents, within one month after the date of the appointment of the child representative or such other period as the Court may direct.

(2) Unless the Court otherwise orders, the written submission referred to in paragraph (1) may propose the adoption of a course of action (including any course of action referred to in rule 31(2)(*f*)) which, in the opinion of the child representative, is in the best interests of the child.

(3) The written submission referred to in paragraph (1) must be served on the child and on all parties to the action or proceedings within such period as the Court may direct.

Application to Court and case conference

33.—(1) A child representative may, at any time during the action or proceedings, apply to the Court to adopt a particular course of action.

(2) The Court may, at any time during the action or proceedings, on its own motion or on the application of the child representative or any party to the action or proceedings, convene a case conference to determine any issue relating to the confidentiality, disclosure or use of any document or information which has come into the possession, or to the attention, of the child representative.

(3) During an application under paragraph (1) or at a case conference under paragraph (2), the Court may make such order as it thinks fit, including an order as to costs.

Remuneration of child representative

34.—(1) The remuneration of the child representative —

(*a*) shall be fixed by the Court; and

(*b*) shall include any disbursements reasonably incurred by the child representative.

(2) Unless the Court otherwise orders, the parties to the action or proceedings shall be jointly and severally liable to pay the amount fixed by the Court for the remuneration of the child representative.

Division 2 — Examination of child

Examination of child with leave of Court

35.—(1) Where a child is a party to or a subject of any action or proceedings, or where any action or proceedings involve the welfare or custody of a child, a party must not, without the leave of the Court, cause the child to be examined or assessed by any registered medical practitioner, psychologist, counsellor, social worker or mental health professional for the purpose of preparing expert evidence for use in those proceedings.

(2) An application for leave under paragraph (1) must be made by summons and must be in the relevant Form.

(3) At the hearing of the leave application, the Court may give such directions and make such orders as it thinks fit, including directions —

(*a*) relating to the appointment of an independent expert and the payment of his remuneration; and

(*b*) limiting the number of experts who may be called in the proceedings.

(4) Where a registered medical practitioner, psychologist, counsellor, social worker or mental health professional who is not appointed by the Court pursuant to an application under paragraph (1) examines or assesses the child, no evidence arising out of the examination or assessment may be adduced without the leave of the Court.

(5) To avoid doubt, no application under paragraph (1) shall be made —

(*a*) for the appointment of a registered medical practitioner, psychologist, counsellor, social worker or mental health professional who is —

(i) a public officer in the State Courts or the Family Justice Courts; or

(ii) a person who is involved in the examination or assessment of the child pursuant to a direction of the Court under rule 36; and

(*b*) in respect of any examination or assessment of a child directed by the Court under rule 36.

Examination of child directed by Court

36. When considering any question relating to the welfare or interest of, or relating to the custody, care and control of and access to any child, the Court may, on its own

motion and with a view to obtaining a report on the welfare of the child, direct that the child be examined or assessed by a person, whether or not a public officer, who is trained or has experience in matters relating to child welfare.

PART 5

PROCEEDINGS UNDER WOMEN'S CHARTER

Division 1 — Application and definitions

Application

37.—(1) Subject to this Part, Parts 1, 2, 3, 4 and 18 and Division 2 of Part 19 of these Rules apply, with the necessary modifications, to proceedings under Part X of the Women's Charter (Cap. 353) to which Division 2 of Part 5 of these Rules relates.

(2) Subject to this Part, the following provisions of these Rules apply, with the necessary modifications, to proceedings under Parts VII and VIII of the Women's Charter to which Divisions 3, 4 and 5 of Part 5 of these Rules relate:

(*a*) Parts 1, 2, 3 and 4;

(*b*) Divisions 38, 57, 58, 59, 64 and 65 of Part 18;

(*c*) Division 2 of Part 19.

(3) Despite paragraph (1), rules 300 and 348 and Divisions 7, 8, 13, 15, 18, 19, 20, 21 and 22 of Part 18 of these Rules shall not apply to any proceedings under Part X of the Women's Charter to which Division 2 of Part 5 of these Rules relates, unless otherwise stated.

Definitions

38.—(1) In this Part, unless the context otherwise requires —

"Act" means the Women's Charter (Cap. 353), and any reference to a section is to be construed as a reference to a section in the Act;

"additional CPF information" means any information that a person is required by the Registrar to obtain from the Central Provident Fund Board which is additional to that contained in a relevant CPF statement;

"Affidavit of Assets and Means" means an affidavit of such description referred to in rule 89;

"agreed matrimonial property plan" means a plan, signed by both parties to a marriage, setting out the parties' agreement as to the way in which an HDB matrimonial asset is to be divided;

"arrangements for the welfare of every dependent child" includes arrangements in relation to —

(*a*) the custody, care and control of, and access to, the child;

(*b*) financial provision for the child;

(*c*) the education of the child; and

(*d*) any other parental responsibility for the child;

"Central Provident Fund" means the Central Provident Fund established under section 6 of the Central Provident Fund Act (Cap. 36);

"Central Provident Fund Board" means the Central Provident Fund Board established under the Central Provident Fund Act;

"child of the marriage" has the same meaning as in section 92;

"dependent child of the marriage" means a child of the marriage who is —

(*a*) below 21 years old; or

(*b*) at least 21 years old but who —

(i) suffers from any mental or physical disability;

(ii) is or will be serving full-time national service; or

(iii) is or will be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment;

"enforcement proceedings" means any proceedings to enforce a maintenance order under section 71;

"family violence trial" means a trial in relation to a protection order under section 65;

"HDB flat" means any residential flat or other residential property sold under Part IV of the Housing and Development Act (Cap. 129) which has been acquired by the present owner of the HDB flat whether directly from the Housing and Development Board or otherwise;

"HDB matrimonial asset" means a matrimonial asset as defined in section 112 which consists of —

(*a*) an HDB flat; or

(*b*) any right or interest arising under an agreement to purchase an HDB flat;

"HDB standard query" means such enquiries as the Registrar may specify which a party is required to make with the Housing and Development Board;

"Housing and Development Board" means the Housing and Development Board established under the Housing and Development Act;

"judgment of judicial separation" has the same meaning as in section 92;

"maintenance proceedings" means any proceedings under section 69, 71 or 72;

"marriage" includes a void marriage and, for the purpose of rule 45, includes a marriage which has been dissolved;

"person named" includes a person described solely by the use of initials;

"proposed matrimonial property plan" means a plan setting out the proposal of a party to a marriage as to the way in which an HDB matrimonial asset is to be divided;

"relevant CPF statement" means a statement issued by the Central Provident Fund Board containing such information as the Registrar may require relating to —

(*a*) any account maintained by the Central Provident Fund Board for any person who is a member of the Central Provident Fund; and

(*b*) the amount withdrawn from any such account (including any accrued interest) for the purchase of any immovable property or in connection with withdrawals of any moneys from the Central Provident Fund;

"variation proceedings" means any proceedings for the variation of maintenance under section 72, 118, 119 or 127;

"writ" has the same meaning as in section 92.

(2) Expressions used in this Part which are used in the Act have the same meanings in this Part as in the Act.

Division 2 — Proceedings under Part X of Act

Application for leave to file writ

39.—(1) An application under section 94 for leave to file a writ for divorce before 3 years have passed since the date of the marriage must be made by originating summons in Form 1.

(2) The applicant must file the originating summons together with a supporting affidavit exhibiting a copy each of the proposed statement of claim and the proposed statement of particulars stating —

(*a*) the grounds of the application;

(*b*) particulars of the hardship or depravity alleged;

(*c*) whether there has been any previous application for leave;

(*d*) whether any, and if so what, attempts at reconciliation have been made;

(*e*) particulars of any circumstances which may assist the Court in determining whether there is a reasonable probability of reconciliation between the parties; and

(*f*) the date of birth of each of the parties or that the party has attained 21 years of age, as the case may be.

(3) The originating summons must be fixed for a case conference before a Registrar or for a hearing before a Judge in Chambers.

(4) Unless the Court otherwise directs, the originating summons, the supporting affidavit and a copy of the notice of proceedings in Form 2 must be served on the defendant at least 5 clear days before the date of the case conference or hearing.

(5) The defendant may be heard without filing a memorandum of appearance.

Application for leave under section 121D

40.—(1) An application under section 121D for leave to file an application for financial relief under section 121B must be made by originating summons.

(2) The applicant must file the originating summons together with a supporting affidavit stating the following:

(*a*) the particulars of the parties to the proceedings;

(*b*) the particulars relating to the dissolution or annulment of the applicant's marriage or the parties' legal separation in the foreign country and evidence that the divorce, annulment or legal separation is recognised as

valid under Singapore law;

(*c*) the particulars of any orders for financial relief made in a foreign country;

(*d*) the ground on which the applicant is relying to give the Court jurisdiction to hear the application;

(*e*) whether there has been any previous application for leave;

(*f*) the financial relief sought in the application made under section 121B.

(3) The application under paragraph (1) must exhibit —

(*a*) a draft copy of the application to be filed under section 121B;

(*b*) a copy of the foreign decree of divorce, annulment of marriage or judicial separation;

(*c*) any relevant decision or order on financial relief including an order made by the foreign court requiring any party to the marriage to make payment to the other party or transfer any matrimonial asset to either one of the parties or to a child of the marriage; and

(*d*) any relevant agreement made between the parties relating to financial relief.

(4) The originating summons must be fixed for a case conference before a Registrar or for a hearing before a Judge in Chambers.

(5) Unless the Court otherwise directs, the originating summons and the supporting affidavit must be served on the defendant at least 5 clear days before the date of the case conference or hearing.

(6) The defendant may be heard without filing a memorandum of appearance.

Commencement of proceedings, etc.

41.—(1) Every proceeding for divorce, presumption of death and divorce, judicial separation, nullity of marriage, or rescission of a judgment of judicial separation must be commenced by filing a writ in Form 3.

(2) Unless the Act or the rules in this Division otherwise provide, every application under Part X of the Act or the rules in this Division must be made either by originating summons or, in a pending action or matter, by summons in Form 4.

Filing of affidavits in originating summons or summons

42.—(1) Unless the Court otherwise directs, a plaintiff or an applicant who intends to adduce evidence in support of an originating summons or a summons in Form 4 must do so by affidavit.

(2) The plaintiff or applicant must —

(*a*) file the affidavit at the time of filing the originating summons or summons, as the case may be; and

(*b*) serve a copy of the originating summons or summons together with the supporting affidavit, on every defendant or respondent.

(3) The defendant or respondent who intends to adduce evidence with reference to the originating summons or summons served on him must file an affidavit-in-reply and serve a copy of it on the plaintiff or applicant not later than —

(*a*) in the case of an originating summons, 21 days after being served a copy of the plaintiff's or applicant's affidavit under paragraph (2); and

(*b*) in the case of a summons, 14 days after being served a copy of the plaintiff's or applicant's affidavit under paragraph (2).

(4) Where the defendant or respondent has served a copy of an affidavit-in-reply in respect of an originating summons filed by a plaintiff or applicant, the plaintiff or applicant may not file a further affidavit without the leave of the Court.

(5) Unless the Court otherwise directs, where the defendant or respondent has served a copy of an affidavit-in-reply in respect of a summons filed by a plaintiff or applicant, the plaintiff or applicant may file a further affidavit and serve a copy of the affidavit on the defendant or respondent within 14 days after being served with the affidavit-in-reply.

(6) This rule shall not apply to any Affidavit of Assets and Means or reply affidavit filed under rule 89.

Duration and renewal of writ, etc.

43.—(1) For the purposes of service, a writ is valid in the first instance for 12 months beginning with the date of its issue.

(2) Subject to paragraph (3), where a writ has not been served on a defendant, the Court may by order extend the validity of the writ from time to time for such period, not exceeding 6 months at any one time, beginning with the day on which it would otherwise expire, as may be specified in the order, if an application for extension is made to the Court before that day or such later day (if any), as the Court may allow.

(3) Where the Court is satisfied on an application under paragraph (2) that, despite the

making of reasonable efforts, it may not be possible to serve a writ within 6 months, the Court may, if it thinks fit, extend the validity of the writ for such period, not exceeding 12 months at any one time, as the Court may specify.

(4) Before a writ, the validity of which has been extended under paragraph (2) or (3), is served, the first page of the writ must be marked with a notice of renewal in Form 5 showing —

(*a*) the date of the order extending the validity of the writ; and

(*b*) the period from which the validity of the writ has been so extended.

(5) The plaintiff must file a copy of the writ marked in accordance with paragraph (4) within 14 days after the date of the order extending the validity of the writ.

(6) The order extending the validity of the writ need not be drawn up, unless the Court otherwise directs.

(7) This rule applies in relation to an originating summons filed under Part X of the Act as it applies in relation to a writ filed under that Part.

Statement of claim

44.—(1) The plaintiff must file, together with a writ —

(*a*) a statement of claim in Form 6 or 7, as appropriate;

(*b*) a statement of particulars in Form 8; and

(*c*) where applicable, a notice of proceedings in Form 9.

(2) The statement of particulars must set out in full the following matters:

(*a*) the particulars of the facts pleaded in the statement of claim but not the evidence by which those facts are to be proved;

(*b*) that the plaintiff is aware of, or has been informed by his solicitor about, the options of family mediation or counselling, before filing the writ.

(3) Without prejudice to paragraph (2), where a statement of claim is based on section 95(3)(*d*) or (*e*), the statement of particulars must set out in full the following matters relating to the separation of the parties:

(*a*) the date on which the parties commenced their separation;

(*b*) the duration of the separation;

(*c*) if the parties lived apart at different residential addresses during the period

of separation, their respective residential addresses (if known);

(*d*) if the parties lived in separate households at the same residential address during the period of separation, the description of how the parties lived in separate households.

(4) The statement of particulars must be signed by the plaintiff's solicitor or by the plaintiff if he is acting in person.

(5) The statement of particulars must form part of the statement of claim and, unless the context otherwise requires, the provisions of this Division which relate to a statement of claim apply, with the necessary modifications, to the statement of particulars.

Parenting plan

45.—(1) Where a writ for divorce, presumption of death and divorce, judicial separation or nullity of marriage discloses that there is any dependent child of the marriage, the plaintiff must file, together with the writ —

(*a*) an agreed parenting plan in Form 10; or

(*b*) a proposed parenting plan in Form 11.

(2) The parties to a marriage must try to agree on the arrangements for the welfare of every dependent child of the marriage and file an agreed parenting plan.

(3) If the parties are unable to agree on the arrangements for the welfare of any dependent child of the marriage, the parties may seek the advice and assistance of a person, whether or not a public officer, who is trained or has experience in matters relating to child welfare, so that the parties may resolve their disagreements harmoniously.

(4) In reaching an agreement on the arrangements for the welfare of any dependent child of the marriage, the parties to the marriage must regard the welfare of that child as the paramount consideration.

Matrimonial property plan

46.—(1) Where a writ for divorce, judicial separation or nullity of marriage discloses that there is an HDB matrimonial asset to be divided, the plaintiff must file, together with the writ —

(*a*) an agreed matrimonial property plan in Form 12 and the particulars of arrangements for housing in Form 13; or

(*b*) a proposed matrimonial property plan in Form 14 and the particulars of arrangements for housing in Form 13.

(2) Where, at any time after the filing of a writ for divorce, judicial separation or nullity of marriage, it is disclosed that there is an HDB matrimonial asset to be divided, the plaintiff must file the documents referred to in paragraph (1)(*a*) or (*b*) in Court —

(*a*) within the time specified by the Court; or

(*b*) if no time is specified by the Court, before the Court makes any order under section 112.

(3) Before the filing of an agreed matrimonial property plan under paragraph (1) —

(*a*) the plaintiff and defendant must each obtain their relevant CPF statement and additional CPF information within such time and in such manner as the Registrar may specify; and

(*b*) the plaintiff must, unless the Court otherwise directs, serve the agreed matrimonial property plan on the Housing and Development Board, which must, within one month after the date of service, give the plaintiff its written reply as to whether it has any objection to the agreed matrimonial property plan or the agreement and, if it has any objection, the nature of the objection.

(4) Before the filing of a proposed matrimonial property plan under paragraph (1), the plaintiff must —

(*a*) obtain his relevant CPF statement and any additional CPF information, in the relevant Form and within such time as the Registrar may specify; and

(*b*) submit the HDB standard query to the Housing and Development Board, which must give the plaintiff its written reply in the relevant Form and within such time as the Registrar may specify.

(5) Where the plaintiff does not obtain his relevant CPF statement or additional CPF information or the Housing and Development Board does not give its written reply within the time specified by the Registrar under paragraph (3) or (4), as the case may be, the plaintiff —

(*a*) may file the writ without the agreed matrimonial property plan or proposed matrimonial property plan; but

(*b*) must file the plan within 7 days after the receipt of the written reply.

(6) The Court may, in an appropriate case, shorten the time within which —

(*a*) the plaintiff or the defendant must obtain his relevant CPF statement or additional CPF information under paragraph (3) or (4); or

(*b*) the Housing and Development Board must give a written reply under paragraph (3) or (4).

Co-defendant and person named in statement of claim

47.—(1) Subject to paragraph (2), where a statement of claim alleges that the defendant has committed adultery, the person with whom the adultery is alleged to have been committed must be made a co-defendant in the action unless —

(*a*) the person is not named in the statement of claim and, if the adultery is relied on for the purpose of section 95(3)(*a*), the statement of claim contains a statement that the person's identity is not known to the plaintiff; or

(*b*) the Court otherwise directs.

(2) Despite paragraph (1), where a statement of claim alleges that the defendant has been guilty of rape of a person named, that person must not be made a co-defendant in the action unless the Court so directs.

(3) Unless the Court otherwise directs, where a statement of claim alleges that the defendant has committed adultery, and the person with whom the adultery is alleged to have been committed is not made a co-defendant under paragraph (1)(*b*), a copy of the writ must be served on that person, together with —

(*a*) the statement of claim;

(*b*) the statement of particulars;

(*c*) a notice of proceedings in Form 9;

(*d*) a copy of an acknowledgment of service in Form 15; and

(*e*) a copy of a memorandum of appearance in Form 16.

(4) Where a statement of claim alleges that the defendant has been guilty of an improper association (other than adultery) with a person named, the Court may direct that a copy of the writ be served on the person named, together with —

(*a*) the statement of claim;

(*b*) the statement of particulars;

(*c*) a notice of proceedings in Form 9;

(*d*) a copy of an acknowledgment of service in Form 15; and

(*e*) a copy of a memorandum of appearance in Form 16.

(5) A person who has been served with a writ under paragraph (3) or (4) and who wishes to intervene in the proceedings must —

(*a*) file a memorandum of appearance in Form 16; and

(*b*) join as a co-defendant in the proceedings at the stage which those proceedings have reached at the time he files the memorandum of appearance,

and his name must appear thereafter in the title to the action as a co-defendant in the proceedings.

(6) An application for directions under paragraph (1)(*b*) may be made ex parte if the defendant has not filed a memorandum of appearance.

(7) Paragraphs (1), (3) and (4) shall not apply if the person named had died before the filing of the writ.

(8) Rules 48 to 51 apply to the service of a copy of a writ under paragraph (3) or (4) as they apply to the service of a copy of a writ on a co-defendant.

Service of writ, etc.

48.—(1) Unless the Court otherwise directs, the plaintiff must serve the following personally or by registered post on the defendant:

(*a*) a copy of the writ, together with —

(i) a statement of claim in Form 6 or 7, as appropriate;

(ii) a statement of particulars in Form 8;

(iii) a copy of an acknowledgment of service in Form 17; and

(iv) a copy of a memorandum of appearance in Form 18;

(*b*) a copy of any parenting plan filed under rule 45;

(*c*) a copy of any matrimonial property plan filed under rule 46;

(*d*) a copy of each originating summons.

(2) Unless the Court otherwise directs, the plaintiff must serve a copy of the writ

together with the following documents personally or by registered post on each co-defendant named in the writ:

(*a*) a statement of claim in Form 6 or 7, as appropriate;

(*b*) a statement of particulars in Form 8;

(*c*) a notice of proceedings in Form 9;

(*d*) a copy of an acknowledgment of service in Form 15;

(*e*) a copy of a memorandum of appearance in Form 16.

(3) Where an originating summons is served by registered post, a copy of an acknowledgment of service in Form 17 must be served together with the originating summons.

(4) Where the solicitor for a defendant or co-defendant endorses on a document served under paragraph (1) or (2) a statement that he accepts service of the document on the defendant's or co-defendant's behalf, the document shall be deemed —

(*a*) to have been duly served on the defendant or co-defendant; and

(*b*) to have been so served on the date on which the endorsement was made.

(5) For the purposes of paragraphs (1), (2) and (3), a document shall be deemed to have been duly served on a party by registered post if —

(*a*) the document is sent by pre-paid registered post to the party; and

(*b*) the party signs and returns an acknowledgment of service in Form 17 or Form 15 to the plaintiff's solicitor, or to the plaintiff if he is acting in person, at the address of service.

(6) Where the party to be served is the defendant or co-defendant, his signature on the acknowledgment of service must be proved at the trial or hearing.

Service out of jurisdiction

49.—(1) Any writ, originating summons, summons or other document in proceedings under Part X of the Act which is filed with a writ or an originating summons may be served personally or by registered post out of the jurisdiction without leave.

(2) The procedure for service out of the jurisdiction must conform as nearly as possible to the procedure in a like case under Division 5 of Part 18.

(3) For the purposes of paragraph (1), a document shall be deemed to have been duly served on a party by registered post if —

(*a*) the document is sent by pre-paid registered post to the party; and

(*b*) the party signs and returns an acknowledgment of service in Form 17 or Form 15 to the plaintiff's solicitor, or to the plaintiff if he is acting in person, at the address of service.

(4) Unless the Court otherwise directs, where a writ is to be served out of the jurisdiction, the time limited for appearance to be endorsed on the writ or entered in any notice accompanying the writ shall be 21 days after service of the writ.

(5) Where an originating summons is to be served out of the jurisdiction, the return date for the originating summons must be fixed having regard to the time which would be limited for appearance under paragraph (4) if the originating summons had been a writ.

Substituted service

50.—(1) Where an application for leave is made to substitute for any mode of service specified in rule 48 or 49 with another mode of service, or with notice of the proceedings by advertisement, the application must be made ex parte by summons supported by an affidavit setting out the grounds of the application.

(2) Where leave is given to substitute any mode of service specified in rule 48 or 49 with notice of the proceedings by advertisement under paragraph (1), the form of the advertisement must be in accordance with Form 19.

Proof of service

51. Unless the Court otherwise directs, and except where service has been dispensed with under rule 53, a writ must not proceed to trial or hearing unless the defendant, every co-defendant and every person named in the statement of claim who is required under rule 47(3), or whom the Court has directed under rule 47(4), to be served with the writ —

(*a*) has entered an appearance; or

(*b*) where the defendant, co-defendant or person named, as the case may be, has not entered an appearance —

(i) is shown by affidavit in Form 20 (which must be filed) to have been served with the writ in accordance with rule 48, 49 or 50, as the case may be; or

(ii) has returned to the plaintiff's solicitor, or to the plaintiff if he is acting in person, an acknowledgment of service in Form 17 or

Form 15, which must be filed in Court.

Service of summons or other documents

52.—(1) Subject to rules 48, 49, 51, 53 and 91(2) and unless the Court otherwise directs, a summons or other document (not being a writ or an originating summons) shall be served by ordinary service in accordance with rule 902.

(2) Unless otherwise provided, a summons must be served within 3 days after the filing of the summons.

(3) A copy of every affidavit pursuant to an order for interrogatories or discovery, must be delivered to the other party if —

(*a*) he is the plaintiff; or

(*b*) he has filed a memorandum of appearance within 2 working days after the affidavit has been filed.

Dispensation with service

53.—(1) The Court may, in an appropriate case, dispense with the service of any writ, originating summons, summons or other document (including subsequent or related documents filed in the proceedings) on any person.

(2) When an order is made under paragraph (1) that the service of a document be dispensed with, that document shall for the purposes of this Division be deemed to have been duly served.

Filing a memorandum of appearance

54.—(1) A defendant, co-defendant or person named in a statement of claim who has been served with a writ may file a memorandum of appearance in the proceedings and defend it by a solicitor or in person.

(2) The defendant, co-defendant or person named in a statement of claim must file a memorandum of appearance containing an address for service within jurisdiction in —

(*a*) Form 18, in the case of a defendant; or

(*b*) Form 16, in the case of a co-defendant or person named in a statement of claim.

(3) If a solicitor is acting on behalf of a defendant, co-defendant or person named in a statement of claim, the solicitor must file a memorandum of appearance containing an

address for service which must be the address at which the solicitor carries on business in —

(*a*) Form 18, where the solicitor is acting for a defendant; or

(*b*) Form 16, where the solicitor is acting for a co-defendant or person named in a statement of claim.

(4) A memorandum of appearance must, unless the Court gives leave to the contrary, be filed —

(*a*) in the case of a writ served within jurisdiction, within 8 days after service of the writ or, where that time has been extended, within the time so extended; and

(*b*) in the case of a writ served out of jurisdiction, within 21 days after service of the writ or, where that time has been extended, within the time so extended.

(5) The Registrar must, on receipt of the memorandum of appearance, send to the plaintiff or his solicitor a copy of the memorandum sealed with the seal of the Court.

(6) A person who wishes to appear may not be heard in the proceedings unless he has filed a memorandum of appearance in accordance with this rule.

(7) Rules 324 and 325 apply, with the necessary modifications, to a person who wishes to appear under this rule.

Consent to grant of judgment of divorce

55.—(1) Where, before the hearing of an action for divorce alleging that the parties to the marriage have lived apart for a continuous period of at least 3 years immediately preceding the filing of the writ and the defendant consents to a judgment being granted, the defendant wishes to notify the Court that he consents to the grant of a judgment, he must do so by filing his written consent in Court in the relevant Form.

(2) For the purposes of paragraph (1), a memorandum of appearance containing a statement that the defendant consents to the grant of a judgment is to be treated as such a consent if the acknowledgment is signed —

(*a*) in the case of a defendant acting in person, by the defendant; and

(*b*) in the case of a defendant represented by a solicitor, by the defendant and the solicitor.

(3) A defendant to an action for divorce alleging the fact mentioned in paragraph (1)

may give notice to the Court —

(*a*) that he does not consent to a judgment being granted; or

(*b*) that he withdraws any consent which he has already given.

(4) Where a notice under paragraph (3) is given in connection with an action for divorce in which none of the other facts mentioned in section 95(3) is alleged, the Registrar may give directions on the further conduct of the proceedings.

Defence and counterclaim

56.—(1) A defendant who has filed a memorandum of appearance in Form 18 and who wishes to defend all or any of the allegations made in the statement of claim must, within 14 days after the expiration of the time limited for the filing of the memorandum of appearance, file a defence in Form 21.

(2) The defence must state that the defendant is aware of, or has been informed by the solicitor acting for him about, the options of family mediation or counselling before filing the defence.

(3) A co-defendant or person named who has filed a memorandum of appearance in Form 16 and who wishes to defend all or any of the allegations made in the statement of claim must, within 14 days after the expiration of the time limited for the filing of a memorandum of appearance, file a defence in Form 21.

(4) A defendant who has filed a memorandum of appearance in Form 18 and who wishes to apply for divorce, judicial separation or nullity of marriage, in addition to defending all or any of the allegations made in the statement of claim, must file a defence, together with a counterclaim, in Form 21 within the time specified in paragraph (1).

(5) Rules 47, 48, 49, 51 and 53 apply, with the necessary modifications, to a counterclaim as they apply to a writ or statement of claim, except that where a counterclaim alleges that the plaintiff has committed adultery, the person with whom the adultery is alleged to have been committed must be named as a defendant in counterclaim and not as a co-defendant.

(6) Rule 54 applies, with the necessary modifications, to the filing of a memorandum of appearance by a defendant in counterclaim or by a person named in a counterclaim who has been served with the counterclaim, as it applies to the filing of a memorandum of appearance by a co-defendant or by a person named in a statement of claim who has been served with a writ, respectively.

(7) A defendant in a counterclaim, or a person named in a counterclaim, who has filed

a memorandum of appearance in Form 16 and who wishes to defend all or any of the allegations made in the counterclaim must, within 14 days after the expiration of the time limited for the filing of the memorandum of appearance, file a defence to the counterclaim in Form 22.

(8) Where the defence filed by a defendant alleges that the plaintiff has committed adultery or has been guilty of an improper association (other than adultery) with a person named —

(*a*) rule 47 applies, with the necessary modifications, to that defence as it applies to a writ or statement of claim;

(*b*) rule 54 applies, with the necessary modifications, to the filing of a memorandum of appearance by the person named, as it applies to the filing of a memorandum of appearance by a person named in a statement of claim who has been served with a writ; and

(*c*) if the person named has filed a memorandum of appearance in Form 16 and wishes to defend all or any of the allegations made in that defence, the person named must, within 14 days after the expiration of the time limited for the filing of the memorandum of appearance, file a reply in Form 22.

(9) A defendant who has been served with a proposed parenting plan under rule 45 may, within 14 days after the expiration of the time limited for the filing of a memorandum of appearance in Form 18 and, if the Court so directs must, within the time specified by the Court, file —

(*a*) the defendant's agreement to the proposed parenting plan in Form 23; or

(*b*) a proposed parenting plan in Form 24 setting out the defendant's proposed arrangements for the welfare of every dependent child of the marriage.

(10) A defendant who has been served with a proposed matrimonial property plan under rule 46 must, within 14 days after the expiration of the time limited for the filing of a memorandum of appearance or such other time as may be specified by the Court, obtain his relevant CPF statement and additional CPF information.

(11) A defendant must, within 14 days after having obtained his relevant CPF statement or additional CPF information under paragraph (10) —

(*a*) send the defendant's agreement to the proposed matrimonial property plan in Form 25 and the particulars of the HDB matrimonial asset in Form 13 to the solicitor for the plaintiff, or to the plaintiff if the plaintiff is acting in person; or

(*b*) file a proposed matrimonial property plan in Form 26 setting out the defendant's proposed arrangements in respect of the HDB matrimonial asset and the particulars in Form 13.

(12) A proposed parenting plan filed under paragraph (9)(*b*) and a proposed matrimonial property plan filed under paragraph (11)(*b*) must be served on the plaintiff within 2 working days after it is filed.

(13) The Court may, on such terms as it thinks just, grant leave to extend or shorten the period within which a person is required to file a pleading or document under this rule.

(14) When the time limited for filing a memorandum of appearance by a defendant, co-defendant, defendant in counterclaim or person named has expired, and the memorandum of appearance has not been filed, the time for filing each of the following documents, as applicable, shall be deemed to have expired notwithstanding that the period of 14 days has not elapsed:

(*a*) a defence (with or without a counterclaim);

(*b*) a defence to a counterclaim;

(*c*) a reply.

Reply and other pleadings

57.—(1) The plaintiff may file a reply or a reply and defence to counterclaim within 14 days after the service of the defence or the defence and counterclaim, as the case may be.

(2) Where the plaintiff has filed a reply and defence to counterclaim, the defendant may file a reply to defence to counterclaim within 14 days after the service of the reply and defence to counterclaim.

(3) Where a defendant in counterclaim or a person named in counterclaim has filed a defence to counterclaim, the defendant may file a reply to defence to counterclaim within 14 days after the service of the defence to counterclaim.

(4) Except as provided in paragraphs (2) and (3), no pleading subsequent to a reply or a reply to defence to counterclaim shall be filed without the leave of the Court.

(5) The Court may, on such terms as it thinks just, grant leave to extend or shorten the period within which a person is required to file a pleading or document under this rule.

(6) All pleadings other than a statement of claim or a defence, with or without a

counterclaim, must be in Form 22.

Contents and delivery of defence and subsequent pleadings

58.—(1) Where a defence, reply, defence to counterclaim or pleading subsequent to a reply contains more than a simple denial of the facts stated in the statement of claim, defence, counterclaim or reply, as the case may be, the pleading must set out with sufficient particularity the facts relied on but not the evidence by which they are to be proved.

(2) Every defence, with or without a counterclaim, or subsequent pleading must be signed by the solicitor for the party filing the same, or by that party if he is acting in person.

(3) A copy of every pleading (other than a pleading that is required to be served under rule 48 or 49) must, within 2 working days after it is filed, be served on the other parties or their solicitors.

Particulars

59.—(1) Any party may by letter require any other party to furnish particulars of any allegation or other matter pleaded.

(2) If the other party who is required to furnish particulars fails to do so within a reasonable time, the party requiring the particulars may apply for an order that particulars be given.

(3) All particulars, whether given pursuant to an order or otherwise, must be filed within 24 hours of being furnished to the party requiring them.

Amendment of writ, originating summons, pleadings, etc.

60.—(1) A writ, statement of claim or statement of particulars may be amended —

(*a*) without leave before service; or

(*b*) with leave after service.

(2) An order made under paragraph (1) must, where a memorandum of appearance has been filed in the proceedings, fix the time within which —

(*a*) the memorandum of appearance must be amended; or

(*b*) the defence or any subsequent pleadings must be filed, amended or served.

(3) Unless the Court otherwise directs, a copy of the amended writ, amended

statement of claim or amended statement of particulars, together with a copy of the order (if any) made under this rule, must be served upon the defendant and every co-defendant or person named in the proceedings.

(4) Where amendments are made to a writ, statement of claim or statement of particulars, and the effect of any such amendment is to add or substitute a new co-defendant or any other person not named as a party in the original proceedings, a copy of the writ (incorporating the amendments, if any) must be served on the new co-defendant or other person, as the case may be, together with —

(*a*) the statement of claim (incorporating the amendments, if any);

(*b*) the statement of particulars (incorporating the amendments, if any);

(*c*) a notice of proceedings in Form 9;

(*d*) a copy of an acknowledgment of service in Form 15; and

(*e*) a copy of a memorandum of appearance in Form 16.

(5) Rules 48, 49 and 51 apply, with the necessary modifications, to the service of a copy of the writ under paragraph (4) as they apply to the service of a copy of a writ on a co-defendant.

(6) Any originating summons, summons, pleading (other than a statement of claim) or document may be amended —

(*a*) without leave before service; or

(*b*) with leave after service.

(7) An order made under paragraph (6) may contain directions —

(*a*) as to the service of the amended originating summons, summons, pleading or document, as the case may be; and

(*b*) as to the making of consequential amendments to pleadings which have already been filed.

(8) Despite this rule, if the parties have agreed that the divorce is to proceed on an uncontested basis, any pleading may, by written consent between the parties, be amended once at any time without the leave of the Court before the setting down of the action for hearing on an uncontested basis.

(9) The amended pleadings must be filed within 14 days after the date on which the written consent of the parties is obtained.

Withdrawal and discontinuance

61.—(1) A party who has filed a memorandum of appearance in any action under Part X of the Act may withdraw the appearance at any time with the leave of the Court.

(2) A party who has commenced an action under Part X of the Act by filing a writ or originating summons may, without the leave of the Court, discontinue the action by filing a Notice of Discontinuance in Form 27, so long as the writ or originating summons, as the case may be, has not been served on the defendant or any other party to the action as at the date on which the Notice is filed.

(3) If all the parties to an action consent, the action may be discontinued without the leave of the Court at any time before trial by filing a Notice of Discontinuance in Form 27 signed by all the parties.

(4) Except as provided by paragraphs (2) and (3), a party may not discontinue an action under Part X of the Act (including an action commenced by way of a counterclaim) without the leave of the Court.

(5) The Court hearing an application for the grant of leave under paragraph (4) may order the action to be discontinued on such terms as to costs, the bringing of a subsequent action or otherwise as it thinks just.

(6) Subject to any terms imposed by the Court in granting leave under paragraph (4), the fact that a party has discontinued an action under paragraph (2), (3) or (4) shall not be a defence for any other party to a subsequent action by the party for the same, or substantially the same, cause of action.

(7) Where a party who has discontinued an action is liable to pay any other party's costs of the action, if before payment of those costs he brings another action for the same, or substantially the same, cause of action, the Court may order that action to be stayed until those costs are paid.

(8) A party who has taken out a summons in an action or matter may not withdraw the summons without the leave of the Court.

(9) An action begun by writ is deemed to have been discontinued against a defendant if —

(*a*) an affidavit of service and acknowledgment of service referred to in rule 51 are not filed in respect of the service of the writ on that defendant before the expiry of 6 months after the validity of the writ for the purpose of service has expired; and

(*b*) within that time, that defendant has not filed a memorandum of

appearance.

(10) Paragraph (9) does not apply where the action has been stayed pursuant to an order of Court.

(11) Where an action has been discontinued under paragraph (9), the Court may, on application, reinstate the action and allow it to proceed on such terms as it thinks just.

(12) Nothing in this rule shall prejudice the Court's power to strike out any action begun by writ due to the plaintiff's failure to take any step in the proceedings directed by the Court.

Discovery, inspection of documents and interrogatories

62.—(1) Divisions 19, 21 and 22 of Part 18 apply, with the necessary modifications, to any defended proceedings commenced by writ or originating summons under Part X of the Act, except in relation to any claim for ancillary relief in those proceedings.

(2) Rules 63 to 77 apply to all matters involving ancillary or financial relief, as the case may be, in any proceedings commenced by writ or originating summons under Part X of the Act.

Discovery in respect of ancillary relief

63.—(1) Subject to paragraphs (7) and (9) and rule 73, the Court may, at any time, on the application of any party to an action or matter (called in this rule the applicant), make an order requiring any other party (called in this rule the respondent) to make an affidavit stating whether any document specified or described in the application, or any class of documents so specified or described —

(*a*) is or has at any time been in the respondent's possession, custody or power; and

(*b*) if not then in his possession, custody or power, when he parted with it and what has become of it.

(2) Upon making an order under paragraph (1), if a document or class of documents is stated by the respondent in his affidavit to be in his possession, custody or power, the Court may order the party to exhibit a copy or copies of the document or class of documents in the affidavit.

(3) An application for an order under this rule must be in the relevant Form, and be supported by an affidavit stating the belief of the deponent —

(*a*) that the party from whom discovery is sought under this rule has, or at

some time had, in his possession, custody or power, the document or class of documents specified or described in the application; and

(*b*) that the document falls within one of the following descriptions:

(i) a document on which the party relies or will rely;

(ii) a document which could —

(A) adversely affect his own case;

(B) adversely affect another party's case; or

(C) support another party's case;

(iii) a document which may lead the party seeking discovery of it to a train of inquiry resulting in his obtaining information which may —

(A) adversely affect his own case;

(B) adversely affect another party's case; or

(C) support another party's case.

(4) Before an application under paragraph (1) may be filed, the applicant must serve a written request on the respondent —

(*a*) seeking discovery of the said document or class of documents, in the relevant Form; and

(*b*) setting out in respect of each of such document or class of documents, the reasons for requesting discovery.

(5) The respondent who is served with the written request for discovery must serve a notice, in the relevant Form, within 14 days after having been served with the written request, stating —

(*a*) which document or class of documents he is willing to provide discovery of, and in what mode he is willing to provide such discovery; and

(*b*) which document or class of documents he is not willing or not able to provide discovery of.

(6) Unless otherwise agreed by the parties, the document or class of documents which the respondent is willing to provide discovery of under paragraph (5)(*a*) must be provided or made available, as the case may be, within 28 days after the service of the

written request for discovery.

(7) No application under paragraph (1) may be made unless —

(*a*) the time specified in paragraph (5) to serve the notice has elapsed, and the respondent has not served such notice;

(*b*) the time specified in paragraph (6) to provide or make available the document or class of documents that the respondent has notified he is willing to provide discovery of has elapsed, and he has not provided or made available such document or class of documents; or

(*c*) the respondent has notified that he is not willing or not able to provide discovery of the document or class of documents specified in the written request.

(8) In deciding whether to grant an order under paragraph (1), the Court must take into account —

(*a*) the extent of discovery which the respondent has stated that he is willing to provide under paragraph (5)(*a*); and

(*b*) any offer made by the respondent to give particulars or make admissions relating to any matter in question.

(9) An order under paragraph (1) must not be made in respect of any party before the granting of the interim judgment, or before the Affidavit of Assets and Means has been filed by the plaintiff and the defendant, unless, in the opinion of the Court —

(*a*) the order is necessary to prevent the disposal of a party's assets;

(*b*) the order is made in conjunction with an order preventing the disposal of a party's assets; or

(*c*) there is any other exceptional circumstance necessitating the making of the order.

Continuing duty to give discovery throughout proceedings

64. After an order is made under rule 63, the party required to give discovery under the order shall remain under a duty to continue to give discovery of all documents falling within the ambit of the order until the proceedings in which the order was made are concluded.

Inspection of documents in respect of ancillary relief

65.—(1) A party to an action or matter may at any time serve a notice, in the relevant Form, on any other party in whose pleadings or affidavits reference is made to any document, requiring the other party —

(*a*) to produce that document for the inspection of the party giving the notice; and

(*b*) to permit the party giving the notice to take copies of the document.

(2) The party on whom a notice is served under paragraph (1) must, within 7 days after service of the notice, serve on the party giving the notice a notice (called in this paragraph the second notice) in the relevant Form —

(*a*) stating a time within 7 days after the service of the second notice at which the documents, or such of them as he does not object to produce, may be inspected at a place specified in the second notice; and

(*b*) stating which (if any) of the documents he objects to produce and on what grounds.

Order for production of documents for inspection

66.—(1) If a party who is served with a notice under rule 65(1) —

(*a*) fails to serve a notice under rule 65(2);

(*b*) objects to producing any document for inspection; or

(*c*) offers inspection at a time or place such that, in the opinion of the Court, it is unreasonable to offer inspection then or there (as the case may be),

then, subject to rule 73, the Court may, on the application of the party entitled to inspection, make an order for the production of the documents in question for inspection at such time and place, in such manner, and on such conditions, as it thinks fit.

(2) Without prejudice to paragraph (1), but subject to rule 73, the Court may, on the application of a party to an action or matter, order any other party to permit the party applying to inspect any documents in the possession, custody or power of that other party in respect of which discovery has been given under rule 63 or pursuant to any order made under this rule.

(3) On making an order under rule 63(1), the Court may, in lieu of making an order under rule 63(2), make such orders for the production of the relevant documents for inspection at such time and place, and in such manner, as it thinks fit.

(4) An application for an order under paragraph (2) must be supported by an affidavit —

(*a*) specifying or describing the documents of which inspection is sought; and

(*b*) stating the belief of the deponent that the documents are in the possession, custody or power of the other party and that discovery has been given of them under rule 63 or pursuant to any order made under that rule.

Production of business books

67.—(1) Where an application is made under rule 66 for the production of any business books for inspection, the Court may, instead of ordering the production of the original books for inspection, order a copy of any entries in the original books to be supplied and verified by an affidavit of some person who has examined the copy with the original books.

(2) Any such affidavit must state whether or not there are in the original books any, and if so what, erasures, interlineations or alterations.

(3) Even if a copy of any entries in any book has been supplied under this rule, the Court may order the production of the book from which the copy was made.

Restriction on use of privileged document, inspection of which has been inadvertently allowed

68. Where a party inadvertently allows a privileged document to be inspected, the party who inspected it may use it or its contents only with the leave of the Court.

Interrogatories in respect of ancillary relief

69.—(1) A party to any proceedings under Part X of the Act (called in this rule the applicant) may serve interrogatories on any other party to the proceedings (called in this rule the respondent), in the relevant Form, setting out in respect of each interrogatory the reasons for requesting the interrogatory.

(2) The interrogatories must —

(*a*) relate to a matter in question between the applicant and the respondent; and

(*b*) be necessary either for disposing fairly of the matter or for saving costs.

(3) A respondent who is served with the interrogatories must serve a notice, in the relevant Form, on the applicant, within 14 days after having been served with the interrogatories, stating —

(*a*) which interrogatories he is willing to answer, to the best of his knowledge, information and belief; and

(*b*) which interrogatories he is not willing or not able to answer.

(4) Unless the parties otherwise agree, the interrogatories which the respondent is willing to answer must be answered by affidavit to be filed within 28 days after the service of the written request for interrogatories.

(5) The applicant may apply to the Court for an order for the relevant interrogatories to be answered if —

(*a*) no response is received from the respondent within the period specified in paragraph (3); or

(*b*) the respondent has stated in writing, pursuant to paragraph (3), that he is not willing or not able to answer any or all of the interrogatories served.

(6) The application for the interrogatories to be answered under paragraph (5) must be made by way of summons in the relevant Form.

(7) A copy of the interrogatories which had been served on the respondent under paragraph (1) must be annexed to and served with the summons.

(8) An order under paragraph (5) must not be made in respect of any party before the granting of the interim judgment, or before the Affidavit of Assets and Means has been filed by the plaintiff and the defendant, unless, in the opinion of the Court —

(*a*) the order is necessary to prevent the disposal of a party's assets;

(*b*) the order is made in conjunction with an order preventing the disposal of a party's assets; or

(*c*) there is any other exceptional circumstance necessitating the making of the order.

(9) In deciding whether to grant an application for interrogatories, the Court must take into account any offer made by the respondent to give particulars, make admissions or produce documents relating to any matter in question.

(10) Where the Court has ordered interrogatories to be answered, they must be answered by affidavit to be filed within such period as the Court directs.

(11) The interrogatories served under paragraph (1) and the application filed under paragraph (5) must specify, where the interrogatories are to be administered to a body corporate or unincorporate which is empowered by law to sue or be sued, whether in its own name or in the name of an officer or other person, the officer or member on whom the interrogatories are to be administered.

Objections and insufficient answers to interrogatories

70.—(1) A person who objects to answering any interrogatory on the ground of privilege may take the objection in his answer.

(2) Where any person on whom interrogatories have been served, or who has been ordered to answer interrogatories, under rule 69 answers any of them insufficiently, the Court may make an order requiring him to make a further answer, either by affidavit or on oral examination as the Court may direct.

(3) Where any person gives insufficient answers to interrogatories which have been served on him or ordered under rule 69, the party administering the interrogatories may ask for further and better particulars of the answers given.

Discovery and interrogatories against non-party

71.—(1) An application after the commencement of proceedings for an order for the discovery of documents to be given, or for an order for interrogatories to be answered, by a person who is not a party to the proceedings (called in this rule the non-party) must be made by summons.

(2) The summons must be served —

(*a*) on the non-party personally; and

(*b*) on every party to the proceedings by way of ordinary service in accordance with rule 902.

(3) The summons must be supported by an affidavit which must —

(*a*) state —

(i) the grounds for the application;

(ii) the material facts pertaining to the proceedings; and

(iii) whether the non-party is likely to be a party to the proceedings;

(*b*) in respect of an application for the discovery of documents, show, if practicable, by reference to any pleading or affidavit served or intended to be served in the proceedings —

(i) that the documents in respect of which the discovery is sought are relevant to an issue arising or likely to arise out of a claim made in the proceedings or the identity of likely parties to the proceedings, or both; and

(ii) that the person against whom the order is sought is likely to have or have had them in his possession, custody or power; and

(*c*) in respect of an application for interrogatories to be answered, show, if practicable, by reference to any pleading or affidavit served or intended to be served in the proceedings that the answers to the interrogatories are relevant to an issue arising or likely to arise out of a claim made in the proceedings or the identity of likely parties to the proceedings, or both.

(4) A copy of the supporting affidavit must be served with the summons on every person on whom the summons is required to be served.

(5) The summons must specify, where the application is for leave to administer interrogatories to a body corporate or unincorporate which is empowered by law to sue or be sued, whether in its own name or in the name of an officer or other person, the officer or member on whom the interrogatories are to be administered.

(6) Subject to rule 73, the Court may make an order for the discovery of documents to be given by, or for leave to administer interrogatories to, a non-party on such terms as it thinks just —

(*a*) for the purpose of or with a view to identifying possible parties to the proceedings in circumstances where the Court thinks it just to make such an order; or

(*b*) in any case, where the Court thinks it necessary to prevent injustice or to prevent an abuse of the process of the Court.

(7) The Court may make an order for the discovery of documents or for interrogatories to be answered conditional on the applicant giving security for the costs of the non-party against whom the order is made or on such other terms, if any, as the Court thinks just.

(8) The Court may make, against a non-party —

(*a*) any of the orders set out in rules 63, 66 and 67 in the case of an order for the discovery of documents; or

(*b*) any of the orders set out in rule 69 in the case of an order for interrogatories to be answered.

(9) No person shall be compelled, by virtue of such an order for the discovery of documents, to produce any document which he could not be compelled to produce if he had been served with a subpoena to produce the documents at the trial.

(10) For the purpose of rules 65, 66, 67 and 68, an application for an order for discovery under this rule is to be treated as an action or matter between the applicant and the person against whom the order is sought.

(11) Rule 63(4) to (9) applies to an application or order for discovery which is made under this rule.

(12) Rules 69 and 70 apply to an application or order for interrogatories to be answered which is made under this rule.

(13) Unless the Court otherwise orders, where an application is made in accordance with this rule for an order, the person against whom the order is sought is entitled to his costs, on an indemnity basis —

(*a*) of the application; and

(*b*) of complying with any order made on the application.

Order for determination of issue, etc., before discovery, inspection or interrogatories

72. Where, on an application for an order for discovery, inspection or interrogatories, it appears to the Court that any issue or question in the action or matter should be determined before any discovery of documents or inspection is, or answers to interrogatories are, given by the parties, the Court may order that issue or question to be determined first.

Discovery, inspection and answers to interrogatories to be ordered only if necessary

73. On the hearing of any application for an order under rule 63, 64, 66, 67, 68, 69, 70 or 71, the Court —

(*a*) may, if satisfied that discovery, inspection or answers to interrogatories are not necessary, or not necessary at that stage of the action or matter, dismiss or, as the case may be, adjourn the application; and

(*b*) must in any case refuse to make such an order, if and so far as the Court is of the opinion that the discovery, inspection or answers to interrogatories are not necessary either for disposing fairly of the cause or matter or for saving costs.

Order for production to Court

74.—(1) At any stage of the proceedings in any action or matter, the Court may, subject to rule 75, order any party to produce to the Court any document in his

possession, custody or power that falls within one of the following descriptions:

(*a*) documents on which a party applying relies or will rely;

(*b*) documents which could —

(i) adversely affect a party's case; or

(ii) support a party's case;

(*c*) documents which may lead to a train of inquiry resulting in the obtaining of information which may —

(i) adversely affect a party's case; or

(ii) support a party's case.

(2) The Court may deal with the document produced pursuant to an order made under paragraph (1) in such manner as it thinks fit.

Failure to comply with order for discovery, inspection or interrogatories, etc.

75.—(1) If any party fails to comply with any provision in rules 63, 64, 65, 66, 67, 68, 69, 70, 71 and 74, or with any order made under those rules, or both, as the case may be, then, without prejudice to rule 66(1), the Court may make such order as it thinks just.

(2) If any party or person against whom an order for discovery or production of documents, or an order to answer or to make further answer to any interrogatories, is made fails to comply with the order, then, without prejudice to paragraph (1), he shall be liable to committal.

(3) Service on a party's solicitor of an order for discovery or production of documents made against the party, or of an order for the party to answer or make further answer to any interrogatories, shall be sufficient service to found an application for committal of the party if the party disobeys the order.

(4) Despite paragraph (3), the party may show in answer to the application that he had no notice or knowledge of the order.

(5) A solicitor on whom such an order made against his client is served and who fails, without reasonable excuse, to give notice of the order to his client shall be liable to committal.

(6) A party who, when he is required to so do, fails to comply with any provision in rules 63, 64, 65, 66, 67, 68, 69, 70, 71 and 74, or any order made under those rules, to give discovery of documents or to produce any document for the purpose of inspection or

any other purpose, or to answer or make further answer to any interrogatories, as the case may be —

(*a*) may not rely on those documents except with the leave of the Court; and

(*b*) may have an adverse inference drawn against him pursuant to section 116(*g*) of the Evidence Act (Cap. 97).

Revocation and variation of orders

76. The Court may, on sufficient cause being shown, revoke or vary any order made under rules 63, 64, 66, 67, 68, 69, 70, 71 and 74 (including an order made on appeal) by a subsequent order or direction made or given at or before the trial of the action or matter in connection with which the original order was made.

Disclosure of documents injurious to public interest

77. Rules 63, 64, 65, 66, 67, 68, 69, 70, 71 and 74 are without prejudice to any rule of law which authorises or requires the withholding of any document or information on the ground that the disclosure of that document or information would be injurious to the public interest, or against the interests of justice.

Medical examination

78.—(1) In an action for nullity of marriage on the grounds of impotence or incapacity, the plaintiff must apply to the Registrar for the determination of the question as to whether Medical Inspectors should be appointed to examine the parties —

(*a*) after a defence has been filed; or

(*b*) if no defence or memorandum of appearance has been filed, after the expiration of the time allowed for filing a defence or a memorandum of appearance, as the case may be.

(2) On such application, the Registrar must, if in the circumstances of the case he considers it expedient to do so, appoint a Medical Inspector or, if it appears to the Registrar to be necessary, 2 Medical Inspectors to examine the parties and to report to the Court the result of the examination.

(3) At the hearing of any such proceedings, the Court may, if it thinks fit, appoint a Medical Inspector or 2 Medical Inspectors to examine any party who has not been examined or to examine further any party who has been examined.

(4) The order, endorsed with notice of the time and place of the examination, must be served on the defendant.

(5) In the case of service of a copy of the writ on a defendant, service of the order referred to in paragraph (4) must be effected and proof of such service must be given in the manner provided for by rules 48 and 51.

(6) Where the defendant has appeared by a solicitor, service may be effected on the solicitor in the manner provided for by rule 52.

(7) The examination shall —

(*a*) if either party so requires, be held at the office of the Medical Inspector appointed or of one of the Medical Inspectors appointed, as the case may be, or at some other convenient place selected by the Medical Inspector or Inspectors; and

(*b*) in every other case, be held at such place as the Registrar may direct.

(8) The Medical Inspector or Inspectors must call upon the solicitors for the parties to identify the parties to be examined by the Medical Inspector or Inspectors, and after such identification —

(*a*) the parties and their solicitors must sign their names; and

(*b*) the paper bearing such signatures must be signed by the Medical Inspector or Inspectors and annexed to the report.

(9) In an action for nullity of marriage on the ground that the marriage has not been consummated owing to the wilful refusal of the defendant to consummate it, either party may apply for the appointment of Medical Inspectors to examine the parties.

(10) On such application, the Registrar shall appoint a Medical Inspector or, if it appears to the Registrar to be necessary, 2 Medical Inspectors, and either of the parties shall be at liberty to submit himself for examination to the Medical Inspector or Inspectors so appointed.

(11) Paragraphs (7) and (8) apply to any examination referred to in paragraph (10), and the Medical Inspector or Inspectors must report to the Court the result of any examination made by him or them.

(12) Every report made pursuant to this rule must be filed, and either party may obtain a copy of the report upon paying the prescribed fee.

Evidence

79.—(1) Subject to paragraph (2), unless the Court otherwise directs, Division 33 of Part 18 in relation to an action commenced by writ applies, with the necessary modifications, to the trial or hearing of an action commenced by writ under Part X of the

Act.

(2) Unless the Court otherwise directs, Division 33 of Part 18 in relation to a cause or matter begun by originating summons applies, with the necessary modifications, to the hearing of an application under rule 39 and an application for ancillary relief in a writ.

(3) Any party may apply —

(*a*) for the appointment of an examiner or for a commission or for letters of request to examine a party or witness in any proceedings under Part X of the Act; and

(*b*) for leave to give the depositions taken on examination in evidence at the trial or hearing.

(4) Division 35 of Part 18 applies to an examination referred to in paragraph (3).

(5) Nothing in any order made under this rule shall affect the power of the Court at the trial or hearing to refuse to admit evidence tendered in accordance with any such order if, in the interests of justice, the Court thinks fit to do so.

Trial of issues

80. The Court may direct, and a plaintiff and any party to proceedings under Part X of the Act who has filed a memorandum of appearance may apply to the Court for directions for, the separate trial of any issue of fact or any question as to the jurisdiction of the Court.

Mode of trial

81.—(1) A trial of any proceedings for divorce, presumption of death and divorce, judicial separation, nullity of marriage or rescission of a judgment of judicial separation, as the case may be, must be heard and determined in open Court.

(2) An application for ancillary relief must be heard and determined in Chambers.

(3) Despite paragraphs (1) and (2), the Court may —

(*a*) where the trial is to proceed on an uncontested basis, dispense with the attendance of all parties and their solicitors; or

(*b*) give such directions as to the hearing of any proceedings or application for ancillary relief as may be necessary.

Setting down for trial or hearing

82.—(1) The plaintiff must set the action down for trial or hearing by filing a notice

in Form 28 —

(*a*) within 14 days after the expiry of the time for the filing of the last pleading; or

(*b*) within such other time as the Court may direct.

(2) The Registrar must cause a notice of trial or hearing to be given to each party in the action who has entered an appearance.

(3) If the plaintiff fails to set the action down within the time specified in paragraph (1) or within such extended time as the Court allows, any party defending the action —

(*a*) may set it down for trial or hearing; and

(*b*) must, within 24 hours after having done so, give the plaintiff and all other parties in the action who have filed a memorandum of appearance notice of his having done so.

(4) Where an action is proceeding only in respect of a counterclaim, a reference to the plaintiff in relation to the setting down of the action for trial or hearing shall be read as a reference to the defendant.

(5) Except with the consent of all parties and with the leave of the Court, no action shall be tried or heard until after the expiration of 10 days from the date of setting down.

Simplified uncontested divorce proceedings

83.—(1) Despite this Division, the plaintiff in any divorce proceedings may apply for the divorce proceedings to be placed on a simplified uncontested hearing track, if the plaintiff and defendant to the divorce proceedings have —

(*a*) agreed that the divorce proceedings will proceed on an uncontested basis; and

(*b*) agreed on all the ancillary matters.

(2) The application under paragraph (1) must be made by filing the following documents:

(*a*) the writ for divorce;

(*b*) a statement of claim in Form 6, which prays for the ancillary matters to be dealt with in the manner as set out in the draft consent order under sub-paragraph (*c*);

(*c*) a statement of particulars in Form 8 exhibiting —

(i) a signed statement of the defendant in the relevant Form setting out the defendant's consent to the commencement of the divorce proceedings and agreement to the dispensation of service on the defendant of all of the documents referred to in sub-paragraphs (*a*) to (*e*);

(ii) a copy of the marriage certificate of the plaintiff and defendant;

(iii) the results of the bankruptcy searches conducted in relation to the plaintiff and defendant; and

(iv) a draft consent order stating the manner of dealing with the ancillary matters agreed on by the plaintiff and defendant, and signed by them or their respective solicitors (as the case may be);

(*d*) an affidavit of evidence-in-chief verifying the statement of particulars in such manner as may be specified in the practice directions;

(*e*) a notice for setting down the action for trial in Form 29.

(3) An agreed parenting plan and an agreed matrimonial property plan need not be filed even if there is any children to the marriage or an HDB matrimonial asset to be divided in the divorce proceedings.

(4) Where the documents in paragraph (2) have been filed and the Court is satisfied that the documents are in order, the Court may place the matter on the uncontested hearing track.

(5) Where the Court places the matter on the uncontested hearing track, the Court may direct that the matter be tried or heard within 10 days after the date of setting down.

Intervention by Attorney-General

84.—(1) When the Attorney-General desires to show cause against making final an interim judgment, he must —

(*a*) enter an appearance in the action in which the interim judgment has been pronounced;

(*b*) within 14 days after entering an appearance, file a summons and a supporting affidavit setting out the grounds and the facts, respectively, upon which he relies; and

(*c*) within 2 working days after filing the summons and supporting affidavit, deliver a copy each of the summons and supporting affidavit to the party, or the solicitor of the party, in whose favour the interim judgment has been pronounced.

(2) Where such summons and supporting affidavit alleges a plaintiff's adultery with any person named, the Attorney-General must, unless directed otherwise by the Court, serve each such person with a copy of the summons and supporting affidavit omitting such part of the summons and supporting affidavit as contains any allegation in which the person so served is not named.

(3) The copy of the summons must —

(*a*) be accompanied by a notice of proceedings in Form 9, a copy of an acknowledgment of service in Form 15 and a copy of a memorandum of appearance in Form 16, so far as the same are applicable; and

(*b*) be served in the manner provided for in the case of a copy of a writ on a co-defendant by rules 48 and 49.

(4) Except as provided in this rule, this Division applies to all subsequent pleadings and proceedings in respect of such summons and supporting affidavit as if the summons and supporting affidavit were an original statement of claim.

(5) If no defence to the summons and supporting affidavit of the Attorney-General is filed within the time limited, or if a defence is filed but has been struck out or is not proceeded with, the Attorney-General may proceed on the summons and apply immediately to rescind the interim judgment and dismiss the action.

(6) If any of the allegations contained in the summons and supporting affidavit of the Attorney-General is not denied in the defence, the party in whose favour the interim judgment has been pronounced must —

(*a*) set down the intervention for trial or hearing; and

(*b*) within 24 hours after setting down the intervention, give to the Attorney-General notice of his having done so.

(7) If the party in whose favour the judgment has been pronounced fails to set down the intervention and give notice to the Attorney-General in accordance with paragraph (6), the Attorney-General may proceed on the summons and apply immediately to rescind the interim judgment and dismiss the action.

(8) If all the allegations contained in the summons and supporting affidavit of the Attorney-General are denied in the defence, the Attorney-General must —

(*a*) set down the intervention for trial or hearing; and

(*b*) within 24 hours after setting down the intervention, file and give to the other parties to the intervention notice of his having done so.

Intervention by person other than Attorney-General

85.—(1) When any person, other than the Attorney-General, wishes to show cause against making final an interim judgment, that person must —

(*a*) enter an appearance in the action in which the interim judgment has been pronounced;

(*b*) within 14 days after entering an appearance, file an affidavit stating the facts upon which he relies; and

(*c*) within 2 working days after filing the affidavit, deliver a copy of the affidavit to the party, or the party's solicitor, in whose favour the interim judgment has been pronounced.

(2) The party in whose favour the interim judgment has been pronounced may, within 14 days after delivery of the affidavit —

(*a*) file an affidavit in answer; and

(*b*) within 2 working days after filing the affidavit in answer, deliver a copy of the affidavit in answer to the person showing cause or to that person's solicitor.

(3) If any affidavit in answer is so filed and delivered, the person showing cause may, within a further 14 days, file and deliver copies of affidavits in reply to the party, or the party's solicitor, in whose favour the interim judgment has been pronounced.

(4) No affidavits shall be filed in rejoinder to the affidavits in reply without leave.

Right of defendant to be heard

86. Despite anything in this Division, a defendant who has filed a memorandum of appearance may, without filing a defence, be heard in respect of —

(*a*) any question as to costs; and

(*b*) any question of custody of or access to any child of the marriage, maintenance or division of matrimonial assets.

Application for ancillary relief

87.—(1) An application by a plaintiff, or by a defendant who files a defence and counterclaim claiming relief, for any of the following, must be made in the writ or defence and counterclaim, as the case may be:

(*a*) an order for maintenance;

(*b*) an order for the division of matrimonial assets.

(2) A defendant may make an application under paragraph (1) only after he has filed a memorandum of appearance.

(3) Despite paragraph (1), an application for ancillary relief which should have been made in the writ or defence and counterclaim may be made subsequently —

(*a*) by leave of the Court, either by summons or at the trial; or

(*b*) where the parties have agreed on the terms of the proposed order, without leave, at the trial.

(4) An application by a plaintiff or defendant for ancillary relief, not being an application which is required to be made in the writ or defence and counterclaim, may be made by summons.

Application for ancillary relief after order of Magistrate's Court or Family Court

88. Where an application for ancillary relief is made while there is in force an order of a Magistrate's Court or Family Court for the maintenance of a spouse or child, the applicant must file a copy of the order on or before the hearing of the application.

Filing of Affidavit of Assets and Means and reply affidavit

89.—(1) Where there is an application for ancillary relief by a plaintiff or defendant, the parties must, if the Court so orders, file and exchange an Affidavit of Assets and Means —

(*a*) in such manner as the Registrar may direct; and

(*b*) within such period as the Court may direct.

(2) On the exchange of the Affidavits of Assets and Means, a party may file and serve on the other party a reply affidavit to the other party's Affidavit of Assets and Means within such time as the Court may direct.

(3) No further affidavit shall be received in evidence without the leave of the Court.

(4) An application for leave under paragraph (3) must be by way of summons.

(5) Rules 63 to 77 apply to any application for discovery, interrogatories or inspection

relating to an Affidavit of Assets and Means.

(6) An order for the filing of an Affidavit of Assets and Means must not be made before the granting of an interim judgment, unless the Court is of the view that such an order is necessary or desirable.

Evidence in proceedings for division of matrimonial assets or avoidance of disposition

90.—(1) The affidavit filed in support of proceedings for the division of matrimonial assets or an avoidance of disposition must contain, so far as is known to the deponent —

(*a*) in the case of an application for a transfer or settlement of assets —

(i) the assets in respect of which the application is made; and

(ii) the assets to which the party against whom the application is made is entitled, either in possession or reversion;

(*b*) in the case of an application for an order for a variation of settlement order —

(i) all settlements, whether antenuptial or postnuptial, made on the spouses; and

(ii) the funds brought into settlement by each spouse; and

(*c*) in the case of an application for an avoidance of disposition order —

(i) the assets to which the disposition relates; and

(ii) the persons in whose favour the disposition is alleged to have been made, and in the case of a disposition alleged to have been made by way of settlement, the trustees and the beneficiaries of the settlement.

(2) Where the proceedings for the division of matrimonial assets or an avoidance of disposition relates to land, the affidavit in support must, in addition to containing any particulars required by paragraph (1) —

(*a*) state whether the title to the land is registered or unregistered and, if registered, the Land Registry title number;

(*b*) give particulars, so far as is known to the applicant, of any mortgage of the land or any interest in the land; and

(*c*) give particulars of the registered owner or owners of the land and, if there is more than one owner, the manner in which the land is held, whether as joint tenants or tenants-in-common.

(3) The affidavit or affidavits filed in respect of proceedings for the division of matrimonial assets or an avoidance of disposition, and any application filed to commence such proceedings, must be served on the following persons and on the party defending the proceedings:

(*a*) in the case of an application for an order for a variation of settlement order, the trustees of the settlement and the settlor, if living;

(*b*) in the case of an application for an avoidance of disposition order, the person in whose favour the disposition is alleged to have been made, and any mortgagee of whom particulars are given pursuant to paragraph (2);

(*c*) such other persons, if any, as the Court may direct.

(4) Subject to any directions of the Court, any person served with an affidavit and an application (if any) to which this rule applies may, within 14 days after service, file an affidavit in answer.

Application to vary order on ancillary relief

91.—(1) An application to vary an order made in proceedings for ancillary relief must be made by summons.

(2) If an application under paragraph (1) is filed more than one year from the date of the final order on ancillary relief —

(*a*) the application must be served personally on every other party in accordance with rule 48 or 49; and

(*b*) proof of service must be given in a manner provided for by rule 51.

Evidence on application for variation order

92.—(1) An application for an order under section 118 or 119 must be supported by an affidavit by the applicant setting out —

(*a*) full particulars of his property and income; and

(*b*) the grounds on which the application is made.

(2) The party defending the application may, within 14 days after service of the affidavit, file an affidavit in answer.

Custody of and access to children

93.—(1) The plaintiff or the defendant spouse or guardian, or any person who has obtained leave to intervene in the action, for the purpose of applying for custody or who has the custody or control of any child of the marriage under an order of the Court, may, after entering an appearance (where applicable) to the writ for this purpose, apply at any time either before or after final judgment to the Court —

(*a*) for an order relating to the custody or education of the child; or

(*b*) for directions that proper proceedings be taken for placing the child under the protection of the Court.

(2) A plaintiff may, at any time after filing a writ under Part X of the Act, and a defendant spouse may, at any time after entering an appearance, apply for access to any child of the marriage.

Information as to other proceedings relating to children

94. On any application under this Division relating to any child of a marriage, the applicant must file a statement as to the nature of any proceedings relating to that child which may be in progress in any court in Singapore or elsewhere.

Form of judgment and order

95.—(1) A judgment must be in Form 30 or 31 and must be issued by the Registrar upon the application of either party to the marriage.

(2) A sealed or other copy of any judgment of the Court may be issued to any person requiring it on payment of the prescribed fee.

(3) An order of Court, other than an order for an injunction, must be in Form 32 and must be signed by the Registrar.

(4) An order of Court in respect of ancillary relief must be extracted by the party in whose favour the interim judgment was pronounced.

(5) Where the party referred to in paragraph (4) fails to extract the order of Court within 14 days after the order was made, any other party affected by the order may extract the order.

Final judgment

96.—(1) An application by a party to make final an interim judgment pronounced in his favour may be made on any day after the expiration of the period fixed by the Court

for making the judgment final.

(2) On filing the application, the Registrar must cause a search to be made of the Court records to be satisfied —

(*a*) that no appeal against the interim judgment is pending;

(*b*) that no order has been made by the Court of Appeal extending the time for appealing against that interim judgment or, if any such order has been made, that the time so extended has expired; and

(*c*) that no appearance has been entered or, if appearance has been entered, that no affidavits have been filed, within the time allowed for filing, by or on behalf of any person wishing to show cause against the interim judgment being made final.

(3) An application referred to in paragraph (1) must not be made —

(*a*) before the hearing of all applications for ancillary relief has been concluded at first instance, without the leave of the Court; or

(*b*) after the expiration of one year from the date of the interim judgment or the expiration of 3 months from the date of the last hearing of an application for ancillary relief in the writ or defence and counterclaim (including the last hearing of any appeal), whichever is the later, without the leave of the Court.

(4) An application for leave under paragraph (3) must be made by summons which must be served on the party against whom the interim judgment was pronounced.

(5) On filing the application referred to in paragraph (1) and subject to the requirements of section 123, the Court may make the interim judgment final.

(6) A spouse may make an application to make final an interim judgment pronounced against him —

(*a*) without leave, if no application is made under paragraph (1) within the time specified in paragraph (3)(*b*); or

(*b*) with leave, in any other case.

(7) An application for leave under paragraph (6)(*b*) must be made by summons which must be served on the party in whose favour the interim judgment was pronounced.

(8) On any application under paragraph (6), the Court may make such order as it thinks fit.

(9) The Registrar must issue a certificate that the interim judgment has been made

final, in accordance with Form 33.

(10) The certificate must be authenticated by affixing to the certificate the seal of the Registry of the Family Justice Courts.

Enforcement of orders

97.—(1) Subject to the provisions of this Part and of any other written law, a judgment or order may be enforced in accordance with the provisions in Part 18 for the enforcement of judgments and orders.

(2) Where a party who has been ordered to lodge damages in Court fails to do so in accordance with the order, the party in whose favour the order was made may apply to the Court at any time to vary the order by directing the payment of the damages to an individual to be specified in the application.

(3) The Court may, if satisfied that in the circumstances it is just and equitable to do so, vary the order for lodgment of damages accordingly upon an undertaking by that individual to lodge the damages in Court or otherwise deal with the damages as and when received as the Court may direct.

(4) Despite paragraph (3), if the application is made after the interim judgment has been made final, the Court may, if satisfied that in the circumstances it is just and equitable to do so, dispense with the undertaking.

(5) Where a party who has been ordered to pay costs into Court fails to do so in accordance with the order, the party in whose favour the order was made may apply to the Court to vary the order by directing payment to an individual to be specified in the application.

(6) The Court may, if satisfied that in the circumstances it is just and equitable to do so, vary the order accordingly, except that, if the application is made before the interim judgment is made final, the order shall only be made upon the individual undertaking to pay the costs into Court as and when received.

Attachment and committal

98.—(1) An application for attachment or committal shall be made to the Court.

(2) Any person whose assets are attached or who is committed may apply to the Court for the discharge of the order for attachment or committal.

Costs against co-defendant, etc.

99. Costs directly referable to an interim judgment or a final judgment must not be

awarded against a co-defendant or defendant in counterclaim who has not filed a defence unless the Court, after having given that party the opportunity to make submissions on the matter, otherwise orders.

Division 3 — Proceedings under Part VII of Act

Evidence for family violence trial

100.—(1) Subject to these Rules, and the Evidence Act (Cap. 97) and any other written law relating to evidence, any fact required to be proved at a family violence trial by the evidence of witnesses must be proved by an examination of the witnesses in Court.

(2) Without prejudice to the generality of paragraph (1), and unless otherwise provided by any written law or by these Rules, at a family violence trial —

(*a*) evidence-in-chief of a witness must be given by way of affidavit; and

(*b*) unless the Court otherwise orders —

(i) the witness must attend trial for cross-examination; and

(ii) in default of the witness' attendance, the witness' affidavit shall not be received in evidence except with the leave of the Court.

(3) Any document to be used in conjunction with an affidavit must be exhibited and a copy of the document annexed to the affidavit, unless the Court otherwise orders.

(4) The affidavit of evidence-in-chief of each witness of a party to the family violence trial must be filed and served on every other party to the family violence trial.

(5) No further affidavits shall be received in evidence without the leave of the Court.

(6) Despite paragraphs (2), (3) and (4), the Court may, if it thinks just, order a party to file and serve on every other party to the family violence trial, an unsworn statement setting out the evidence that the party's witness intends to adduce at the trial, in lieu of an affidavit of evidence-in-chief of that witness.

(7) Despite paragraphs (2), (3), (4) and (6), the Court may, if it thinks just, order —

(*a*) that the evidence of a witness or any part of such evidence be given orally at a family violence trial; and

(*b*) where a witness is subpoenaed by a party, that that party file and serve, on every other party to the family violence trial, a statement of evidence

which that party intends the witness to adduce at the trial.

(8) Nothing in this rule shall make admissible evidence which if given orally would be inadmissible.

Family violence trial

101.—(1) The Judge may give directions on the conduct of a family violence trial, which may include the following:

(*a*) directions that the parties identify the relevant issues and address specific issues;

(*b*) directions as to the party to begin and the order of speeches at the trial.

(2) Subject to any directions given under paragraph (1), the party to begin and the order of speeches shall be that provided by this rule.

(3) The Judge who is hearing the family violence trial may, if he thinks fit, at any time during the hearing, question or examine any witness in the trial.

(4) The Judge may direct that an application for an order under Part VII of the Act be dealt with without any oral testimony or examination of witnesses, where all the parties agree that —

(*a*) there is only a question of law to be tried before the Judge; and

(*b*) there is no dispute on the facts stated in the affidavits filed by the parties.

(5) The applicant in a family violence trial shall begin by opening his case.

(6) If the respondent elects not to adduce evidence —

(*a*) the applicant may, after the evidence on his behalf has been given, make a second speech closing his case; and

(*b*) the respondent shall then state his case.

(7) Paragraph (6) applies whether or not the respondent has in the course of cross-examination of a witness for the applicant or otherwise put in a document.

(8) If the respondent elects to adduce evidence, he may —

(*a*) after any evidence on the applicant's behalf has been given, open the respondent's case; and

(*b*) after the evidence on the respondent's behalf has been given, make a second speech closing his case.

(9) At the close of the respondent's case, the applicant may make a speech in reply.

Division 4 — Proceedings (other than garnishee proceedings) under Part VIII of Act

Discovery in maintenance proceedings

102.—(1) Subject to paragraph (4), the Court may at any time order any party in maintenance proceedings to give discovery, in such form as the Court may direct, by filing and serving on the other party an affidavit exhibiting a list of documents as specified by the Registrar.

(2) The Court may at any time, on the application of any party in maintenance proceedings, make an order requiring any other party to make an affidavit or give sworn statements stating whether —

(*a*) any document specified or described in the application and that is not the subject of any order made under paragraph (1); or

(*b*) any class of documents so specified or described in the application,

is or has at any time been in the other party's possession, custody or power, and if not then in his possession, custody or power, when he parted with it and what has become of it.

(3) Upon making an order under paragraph (1) or (2), the Court may, if a party states in his affidavit or sworn statement that a document or class of documents is in his possession, custody or power, direct the party to produce and exhibit a copy or copies of the document or class of documents stated in the affidavit or sworn statement in such manner as the Court may direct.

(4) An application for an order under this rule must —

(*a*) be in the relevant Form; and

(*b*) be supported by an affidavit or a sworn statement stating the belief of the applicant that the party from whom discovery is sought under this rule had or has in his possession, custody or power, the document or class of documents specified in the application.

(5) The application under paragraph (2) must set out, in respect of each such document or class of documents, the reasons for requesting discovery.

Continuing duty to give discovery throughout maintenance proceedings

103. After the making of any order under rule 102, the party required to give discovery under the order shall remain under a continuing duty to give discovery of all documents falling within the ambit of the order until the proceedings in which the order was made are concluded.

Inspection of documents in maintenance proceedings

104.—(1) A party in maintenance proceedings (called in this rule the first-mentioned party) may at any time apply to the Court, in such form and manner as the Registrar may direct, requiring any other party to —

(*a*) produce a document which was referred to in the affidavits or sworn statements of that other party or the bundle of documents filed into Court for the inspection of the first-mentioned party; and

(*b*) permit the first-mentioned party to take copies of such document or documents.

(2) The other party must offer inspection of the documents at a reasonable time and place unless he objects to such inspection.

Order for production of documents for inspection in maintenance proceedings

105.—(1) If a party who is responding to an application under rule 104 —

(*a*) objects to the production of any document for inspection; or

(*b*) offers inspection at any time or place which, in the opinion of the Court, is unreasonable,

the Court may, subject to rule 109 and on the application of the party entitled to inspection, make an order for the production of the documents in question for inspection at such time and place, in such manner, and on such conditions, as it thinks fit.

(2) Without prejudice to paragraph (1), but subject to rule 109, the Court may, on the application of any party in maintenance proceedings, order any other party to permit the party who makes the application to inspect any documents in the possession, custody or power of that other party in respect of which discovery has been given under rule 102 or pursuant to any order made under this rule.

(3) In particular, on the making of an order under rule 102(2), the Court may, in lieu of making an order under rule 102(3), make such orders for the production of the relevant documents for inspection at such time and place, and in such manner, as it thinks fit.

Production of business books in maintenance proceedings

106.—(1) Where an application is made under rule 104 for the production of any business books for inspection, the Court may, instead of ordering the production of the original business books for inspection, order a copy of any entries in the original business books to be supplied and verified by an affidavit of a person who has examined the copy together with the original books.

(2) Such affidavit must state —

(*a*) whether or not there are any erasures, interlineations or alterations in the original books; and

(*b*) if so, what erasures, interlineations or alterations there are.

(3) Even if a copy of any entries in any business book has been supplied under this rule, the Court may order the production of the book from which the copy was made.

Restriction on use of privileged document, inspection of which has been inadvertently allowed in maintenance proceedings

107. Where a party inadvertently allows a privileged document to be inspected, the party who inspected it may use it or its contents only with the leave of the Court.

Order for determination of issue, etc., before discovery and inspection in maintenance proceedings

108. Where on an application for an order for discovery or inspection, it appears to the Court that any issue or question in the maintenance proceedings should be determined before any discovery of documents or inspection, the Court may order that the issue or question be determined first.

Discovery and inspection to be ordered in maintenance proceedings only if necessary

109. On the hearing of any application for an order under rule 102, 104, 105 or 106, the Court —

(*a*) may, if satisfied that discovery or inspection is not necessary, dismiss the application; and

(*b*) must in any case refuse to make such an order if and so far as it is of the opinion that discovery or inspection is not necessary either for disposing fairly of the cause or matter or for saving costs.

Order for production of documents to Court in maintenance proceedings

110.—(1) At any stage of any maintenance proceedings, the Court may, subject to rule 111, order any party to produce to the Court any document in his possession, custody or power that falls within one of the following descriptions:

(*a*) documents on which a party applying for discovery or inspection relies or will rely;

(*b*) documents which could —

(i) adversely affect a party's case; or

(ii) support a party's case;

(*c*) documents which may lead to a train of inquiry resulting in the obtaining of information which may —

(i) adversely affect a party's case; or

(ii) support a party's case.

(2) The Court may deal with the document when produced pursuant to an order made under paragraph (1) in such manner as it thinks fit.

Failure to comply with order relating to discovery or inspection in maintenance proceedings

111.—(1) If any party fails to comply with any provision in rule 102, 103, 104, 105, 106, 107 or 110 or with any order made under those rules, or both, the Court may make such order as it thinks fit.

(2) Without prejudice to the generality of paragraph (1), the further orders that may be made by a Court under that paragraph may include one or both of the following orders:

(*a*) an order that proceedings shall be stayed until the parties have complied with the relevant provision in one or more rules referred to in paragraph (1), or with any order made under those rules, or both;

(*b*) such order as to costs as the Court thinks appropriate against the party who fails to comply with the relevant provision in one or more rules referred to in paragraph (1) or with any order made under those rules, or both.

(3) Without prejudice to paragraphs (1) and (2), a party who fails to comply with any provision in rule 102, 103, 104, 105, 106, 107 or 110 or with any order made under those

rules or both, as the case may be —

(*a*) may not rely on those documents except with the leave of the Court; and

(*b*) may have an adverse inference drawn against him pursuant to section 116(*g*) of the Evidence Act (Cap. 97).

Revocation and variation of orders for discovery or inspection in maintenance proceedings

112. The Court may, on sufficient cause being shown, revoke or vary any order made under rule 102, 104, 105, 106 or 110 (including an order made on appeal) by a subsequent order or direction made or given at or before the hearing of the maintenance proceedings.

Disclosure of document which would be injurious to public interest

113. Rules 102, 103, 104, 105, 106, 107 and 110 are without prejudice to any rule of law which authorises or requires the withholding of any document or information on the ground that the disclosure of it would be injurious to the public interest, or against the interests of justice.

Evidence for maintenance proceedings

114.—(1) Subject to these Rules, and the Evidence Act (Cap. 97) and any other written law relating to evidence, any fact required to be proved at maintenance proceedings by the evidence of witnesses must be proved by an examination of the witnesses in Court.

(2) Without prejudice to the generality of paragraph (1), and unless otherwise provided by any written law or by these Rules, at any maintenance proceedings —

(*a*) evidence-in-chief of a witness must be given by way of affidavit; and

(*b*) unless the Court otherwise orders —

(i) the witness must attend the proceedings for cross-examination; and

(ii) in default of the witness' attendance, the witness' affidavit shall not be received in evidence except with the leave of the Court.

(3) Any document to be used in conjunction with an affidavit must be exhibited and a copy of the document annexed to the affidavit, unless the Court otherwise orders.

(4) The affidavit of evidence-in-chief of each witness of a party to the maintenance proceedings must be filed and served on every other party to the maintenance proceedings and any affidavit in reply must be filed and served on every other party.

(5) No further affidavits shall be received in evidence without the leave of the Court.

(6) Despite paragraphs (2), (3) and (4), the Court may, if it thinks just, order a witness to produce to the Court, at such time as the Court may direct, any document which the party calling the witness intends to use at the maintenance proceedings, in lieu of an affidavit of evidence-in-chief or of annexing the document or a copy of the document to the affidavit.

(7) Despite paragraphs (2), (3), (4) and (6), the Court may, if it thinks just, order —

(*a*) that evidence of a witness or any part of such evidence be given orally at a maintenance proceedings; and

(*b*) where a witness is subpoenaed by a party, that the party file and serve on every other party, to the maintenance proceedings, a statement of evidence which that party intends the witness to adduce at the proceedings.

(8) Nothing in this rule shall make admissible evidence which if given orally would be inadmissible.

Maintenance proceedings

115.—(1) The Judge may give directions on the conduct of the maintenance proceedings, which may include the following:

(*a*) directions that the parties identify the relevant issues and address specific issues;

(*b*) directions as to the party to begin and the order of speeches at the proceedings.

(2) Subject to any directions given under paragraph (1), the party to begin and the order of speeches shall be that provided by this rule.

(3) The Judge hearing the maintenance proceedings may, if he thinks fit, at any time during the hearing, question or examine any witness in the proceedings.

(4) The applicant in maintenance proceedings shall begin by opening his case.

(5) If the respondent elects not to adduce evidence —

(*a*) the applicant may, after the evidence on his behalf has been given, make a second speech closing his case; and

(*b*) the respondent shall then state his case.

(6) Paragraph (5) applies whether or not the respondent has in the course of cross-examination of a witness for the applicant or otherwise put in a document.

(7) If the respondent elects to adduce evidence, he may —

(*a*) after any evidence on the applicant's behalf has been given, open the respondent's case; and

(*b*) after the evidence on the respondent's behalf has been given, make a second speech closing his case.

(8) At the close of the respondent's case, the applicant may make a speech in reply.

(9) Where the evidence of all the parties and witnesses have been given by way of affidavit, the Judge may, if he thinks fit, direct that the maintenance proceedings be heard and determined without the cross-examination of any party or witness.

Enforcement proceedings

116.—(1) The Judge may give directions on the conduct of the enforcement proceedings, which may include the following:

(*a*) directions that the parties identify the relevant issues and address specific issues;

(*b*) directions as to the party to begin and the order of speeches at the proceedings;

(*c*) directions to limit cross-examination of witnesses to specific issues.

(2) Subject to any directions given under paragraph (1), the party to begin and the order of speeches shall be that provided by this rule.

(3) The Judge hearing the enforcement proceedings may, if he thinks fit, at any time during the hearing, question or examine any witness in the proceedings.

(4) The applicant in enforcement proceedings shall begin by opening his case.

(5) If the respondent in enforcement proceedings elects not to adduce evidence —

(*a*) the applicant may, after the evidence on his behalf has been given, make a second speech closing his case; and

(*b*) the respondent shall then state his case.

(6) Paragraph (5) applies whether or not the respondent has in the course of cross-examination of a witness for the applicant or otherwise put in a document.

(7) If the respondent elects to adduce evidence, he may —

(*a*) after any evidence on the applicant's behalf has been given, open the respondent's case; and

(*b*) after the evidence on the respondent's behalf has been given, make a second speech closing his case.

(8) At the close of the respondent's case, the applicant may make a speech in reply.

(9) If the respondent does not dispute the applicant's claim and the entire amount of arrears claimed in the enforcement proceedings, the Judge may immediately direct the respondent to show cause why the maintenance order should not be enforced against the respondent.

Variation proceedings

117.—(1) Unless the Court otherwise directs, variation proceedings in respect of a maintenance order shall not operate as a stay of enforcement proceedings in respect of that maintenance order.

(2) Where an application for the variation of a maintenance order under Part VIII or X of the Act and an application for the enforcement of a maintenance order under Part VIII of the Act have been filed in respect of the same maintenance order, the Court may at any stage of the proceedings —

(*a*) if it thinks just, direct that both applications be heard together; and

(*b*) give such other directions as it thinks necessary for the just, expeditious and economical disposal of the proceedings.

(3) Rules 114 and 115 apply where the applications referred to in paragraph (2) are directed to be heard together.

Division 5 — Garnishee proceedings under Part VIII of Act

Definitions

118. In this Division, unless the context otherwise requires —

"applicant", in relation to garnishee proceedings, means a person who applies for a

garnishee order;

"defendant", in relation to garnishee proceedings or proceedings under rule 131, means the person who fails to make one or more payments required to be made under a maintenance order;

"garnishee" means a person who is within the jurisdiction and from whom money is due or accruing due to the defendant;

"garnishee order" means an order made under section 71(1)(*c*);

"garnishee proceedings" means proceedings for the application of a garnishee order and includes proceedings which arise out of or are incidental to such application;

"maintenance order" has the same meaning as in section 80.

Application for garnishee order

119.—(1) A person who has applied for a maintenance order, or a person to whom the Court has directed maintenance to be paid, may apply for a garnishee order for the enforcement of the maintenance order.

(2) An application to a Family Court for a garnishee order must be made in accordance with the procedure under section 79(1).

Powers of Court in garnishee proceedings

120.—(1) Subject to any written law, the Court, may in an application for a garnishee order, at any time —

(*a*) order the defendant to give to the Court, within the period specified in the order, a statement signed by him of —

(i) the name and address of every garnishee;

(ii) such particulars of the nature and the amount of debt due or accruing due as may be specified in the order; and

(iii) such particulars of the defendant as may be specified in the order for the purpose of enabling the garnishee to identify the defendant; and

(*b*) order any person appearing to the Court to be a garnishee to give to the Court, within the period specified in the order, a statement signed by him or on his behalf of such particulars as may be required by the order of all

debts due or accruing due to the defendant.

(2) A document purporting to be such a statement referred to in paragraph (1) shall, in the garnishee proceedings, be received in evidence and be deemed to be such statement without further proof unless the contrary is shown.

Nature of garnishee order

121.—(1) The Court may, in an application for a garnishee order, order the garnishee to pay the applicant —

(*a*) the amount of any debt due or accruing due to the defendant from the garnishee; or

(*b*) so much of that amount as is sufficient to satisfy the outstanding amounts due under the maintenance order and the costs of the garnishee proceedings.

(2) An order under paragraph (1) —

(*a*) must, in the first instance, be an order to show cause, specifying the date, time and place for further consideration of the matter;

(*b*) must attach such debt referred to in paragraph (1), or so much of it as may be specified in the order, to satisfy the outstanding amounts due under the maintenance order and the costs of the garnishee proceedings; and

(*c*) must be in Form 34.

(3) For the purpose of this rule, "any debt due or accruing due" includes an amount standing to the credit of the defendant in a current account or deposit account in a bank or other financial institution, whether or not it has matured and notwithstanding any restriction as to the mode of withdrawal.

Service and effect of order to show cause

122.—(1) An order under rule 121 to show cause must, at least 7 days before the time appointed by the order for the further consideration of the matter, be served —

(*a*) on the garnishee; and

(*b*) unless the Court otherwise directs, on the defendant.

(2) Such an order shall bind in the hands of the garnishee, as from the service of the order on him, any debt specified in the order or so much of the debt as may be so specified.

Mode of service

123. Unless the Court otherwise directs, the service of any document on a garnishee must be undertaken by the Registrar by way of registered post.

No appearance or dispute of liability by garnishee

124.—(1) Where, on the further consideration of the matter, the garnishee does not attend or does not dispute the debt claimed to be due from him to the defendant, the Court may, subject to rule 129, make an order absolute under rule 121 in the appropriate form in Form 35 against the garnishee.

(2) An order absolute under rule 121 against the garnishee may be enforced in the same manner as any other order for the payment of money made by a Court and Part 18 shall, with the necessary modifications, apply to such enforcement.

Dispute of liability by garnishee

125. Where, on the further consideration of the matter, the garnishee disputes liability to pay the debt claimed to be due from him to the defendant, the Court may —

(*a*) summarily determine the question at issue; or

(*b*) order in Form 36 that any question necessary for determining the liability of the garnishee be tried in any manner in which any question or issue in an action may be tried.

Certificate by bank or financial institution

126. Where the garnishee is a bank or other financial institution, a certificate signed by an authorised officer of the bank or financial institution containing the following information may be received in evidence by the Court for the purposes of rules 124(1), 125 and 128:

(*a*) information as to whether the bank or financial institution disputes the debt claimed to be due from the bank or financial institution to the defendant;

(*b*) if the matter in paragraph (*a*) is not disputed by the bank or financial institution, information as to the amount of the debt; and

(*c*) such other information as the Court may require.

Service of order absolute, etc.

127. An order absolute under rule 121 and an order under rule 125 must be served —

(*a*) on the garnishee; and

(*b*) unless the Court otherwise directs, on the defendant.

Claims of third persons

128.—(1) If in garnishee proceedings it is brought to the notice of the Court that some person other than the defendant is or claims to be entitled to the debt sought to be garnished or has or claims to have a charge or lien upon it, the Court may order that person to attend before the Court and state the nature of the claim with particulars of the claim.

(2) The Court may, after hearing the person who attended in compliance with an order under paragraph (1) —

(*a*) summarily determine the question at issue between the claimants; or

(*b*) make such other order as it thinks just, including an order that any question or issue necessary for determining the validity of the claim of that person be tried in such manner referred to in rule 125.

Applicant resident outside scheduled territories

129.—(1) The Court must not make an order under rule 121 requiring the garnishee to pay any sum to or for the credit of any applicant outside the scheduled territories unless the applicant produces a certificate that the Monetary Authority of Singapore has given permission under the Exchange Control Act (Cap. 99) for the payment unconditionally or on conditions which have been complied with.

(2) If it appears to the Court that payment by the garnishee to the applicant will contravene any provision of the Exchange Control Act, the Court may order the garnishee to pay into Court the amount due to the applicant and the costs of the garnishee proceedings after deduction of his own costs.

Discharge of garnishee

130. Any payment made by a garnishee in compliance with an order absolute under this Division, and any execution levied against him pursuant to such an order, shall be a valid discharge of his liability to the defendant to the extent of the amount paid or levied, even if —

(*a*) the garnishee proceedings are subsequently set aside; or

(*b*) the maintenance order from which the garnishee proceedings arose are reversed, set aside or varied.

Money in Court

131.—(1) Where money is standing to the credit of the defendant in Court, a person must not apply for a garnishee order under this Division in respect of that money but may apply to the Court by summons for an order that the money or so much of it as is sufficient to satisfy the sums outstanding under the maintenance order concerned and the costs of the application be paid to him.

(2) On issuing a summons under this rule —

(*a*) the applicant must produce the summons at the office of the Accountant-General and leave a copy at that office; and

(*b*) the money to which the application relates must not be paid out of Court until after the determination of the application.

(3) If the application is dismissed, the applicant must give notice of that fact to the Accountant-General.

(4) Unless the Court otherwise directs, the summons must be served on the defendant at least 7 days before the day of the hearing of the summons.

(5) The Court hearing the application may make such order with respect to the money as it thinks just.

PART 6

ADOPTION OF CHILDREN ACT

Definitions and application

132.—(1) In this Part, unless the context otherwise requires —

"Act" means the Adoption of Children Act (Cap. 4), and any reference to a section is to be construed as a reference to a section in the Act;

"applicant" means the person or persons applying for an adoption order;

"infant" means the child proposed for adoption.

(2) Subject to this Part, Parts 1, 2, 3, 4 and 18 and Division 2 of Part 19 apply, with the necessary modifications, to proceedings under the Act.

Application for adoption order

133.—(1) An application for an adoption order must be made by originating

summons in Form 37 and must seek the following reliefs:

(*a*) that the Director of Social Welfare may be appointed guardian in adoption[12] of the infant, whose original name must be stated;

(*b*) that an order for the adoption of the infant, specifying the applicant's intended name for the infant, may be made pursuant to the Act with all necessary directions;

(*c*) that the costs of the application may be provided for as the Court may direct;

(*d*) that any of the consents required under section 4 be dispensed with, where applicable;

(*e*) that service of the originating summons and the supporting affidavit on any persons as required under rule 135 be dispensed with, where applicable.

(2) The proposed adopter must be the applicant and the infant must be named in the title of the originating summons.

Verification of information

134. The applicant must file, together with the originating summons, an affidavit verifying the information in the Statement in Form 38 and exhibit in the affidavit —

(*a*) the Statement in Form 38; and

(*b*) all certificates, consents and other documents proper for proving the averments in the affidavit.

Service

135.—(1) The originating summons, Statement in Form 38 and supporting affidavit must be served personally on —

(*a*) the parent of the infant;

(*b*) the guardian of the infant;

(*c*) the person having the actual custody of the infant; or

(*d*) the person liable to contribute to the support of the infant.

(2) The Court may, in its discretion, dispense with service on any person referred to in paragraph (1) or order the originating summons, Statement in Form 38 and supporting affidavit to be served on any other person.

(3) A consent to an application for adoption and dispensation of service of the originating summons and supporting documents must be in Form 39.

Guardian in adoption[12]

136.—(1) The originating summons, Statement in Form 38 and supporting affidavit must be served on the proposed guardian in adoption[12] within 7 days after the date they were filed.

(2) The Registrar must appoint a day for the hearing of the originating summons for the appointment of a guardian in adoption[12] to the infant as soon as practicable after the filing of the originating summons, Statement in Form 38 and supporting affidavit.

(3) The Court may appoint the Director of Social Welfare, upon his consent, and upon the applicant undertaking to pay his costs, as such guardian in adoption[12].

(4) Despite paragraph (3), the Court may for special reasons appoint any other fit and proper person as such guardian in adoption[12].

Consent

137.—(1) Every consent required under section 4 must —

(*a*) be attested by a solicitor, a commissioner for oaths, a notary public or any person for the time being authorised by law in the place where the document is executed to administer oaths; and

(*b*) be in Form 39.

(2) An application for dispensation of consent must —

(*a*) be made in the originating summons in Form 37; and

(*b*) be served on the person whose consent is to be dispensed with, unless the Court otherwise orders.

Affidavit by guardian in adoption[12]

138.—(1) The guardian in adoption[12] must make an affidavit before the further hearing of the originating summons setting out the result of any investigation made as to the circumstances of the infant and the applicant, and all other matters relevant to the proposed adoption with a view to safeguarding the interest of the infant, and as to the following questions in particular so far as the guardian in adoption[12] has been able to

ascertain:

(*a*) whether the averments in the affidavit are true;

(*b*) whether any payment or other reward in consideration of the adoption has been received or agreed upon, and whether it is consistent with the welfare of the infant;

(*c*) whether the means and status of the applicant are such as to enable the applicant to maintain and bring up the infant suitably, and what right or interest in property the infant has;

(*d*) whether it is desirable for the welfare of the infant that the Court should be asked to make an interim order or to impose in making an adoption order any particular terms and conditions or to require the applicant to make any particular provision for the infant.

(2) Where the Director of Social Welfare is the guardian in adoption[12] of the infant, the affidavit may be sworn by the Director or any public officer appointed by him to conduct the required investigation.

(3) The guardian in adoption[12] must send the affidavit made under paragraph (1) or (2) —

(*a*) to the business address of the solicitor (if any) who is acting for the applicant in the proceedings; or

(*b*) if the applicant is unrepresented, to the applicant at his usual or last known address.

Request for further hearing

139.—(1) The applicant or his solicitor must file the affidavit of the guardian in adoption[12] together with the request for further hearing in Form 40 and serve the affidavit and request for further hearing on all parties at least 7 days before the date of the further hearing.

(2) When the applicant or his solicitor has filed the affidavit of the guardian in adoption[12] together with the request for further hearing, the Registrar must appoint a day for the further hearing of the originating summons.

Documents confidential

140. All documents filed in the proceedings shall be confidential and, subject to the requirements of these Rules as to service of such documents, no inspection of the

documents shall be given or copy of the documents supplied except by the written authority of the Court.

Attendance of parties

141. The Judge may refuse to make an adoption order or an interim adoption order unless all parties (including the infant) attend before the Judge, but the Judge shall have power, in his discretion —

(*a*) to dispense with the attendance of any party including the infant;

(*b*) to direct that any party attend before the Judge separately and apart from the others; or

(*c*) to direct that any party including the infant be interviewed privately by the Judge.

Where previous application refused

142. If it appears that the applicant has made a previous application under the Act in respect of the same infant and that such application has been refused, the Court must not make an adoption order or an interim adoption order unless satisfied that there has been a substantial change in the circumstances of the case.

Interim supervision of infant

143. An interim adoption order may provide for the supervision of the infant by the guardian in adoption[12] or otherwise as the Court thinks just.

Costs

144. The Court may make such orders as to costs as it thinks just and may direct that all the costs of an originating summons under the Act shall be borne and paid by the applicant.

Security of documents

145. The Registrar must keep in a place of special security all documents relating to any application or order made under the Act.

Orders of Court

146.—(1) An interim adoption order must be in Form 41 and an adoption order must be in Form 42 or Form 43.

(2) An order of Court, other than an interim adoption order or an adoption order, must be in Form 44.

Applications by summons

147. Unless otherwise provided in the Act or these Rules, every application in Chambers under this Part must be made by summons in Form 45.

PART 7

CHILDREN AND YOUNG PERSONS ACT

Definitions and application

148.—(1) In this Part, unless the context otherwise requires —

"Act" means the Children and Young Persons Act (Cap. 38), and any reference to a section is to be construed as a reference to a section in the Act;

"Court" means a Youth Court.

(2) Expressions used in this Part which are used in the Act have the same meanings in this Part as in the Act.

(3) This Part and Division 2 of Part 19 apply to proceedings under sections 49 and 50.

(4) Subject to paragraph (3), no other provision of these Rules is to apply to this Part.

Application under section 49 or 50 to be heard in Chambers

149. Unless the Court otherwise directs, any application made under section 49 or 50 must be heard and determined in Chambers.

Power to give directions for just, expeditious and economical disposal of proceedings

150.—(1) The Court may at any stage of the proceedings direct any party or parties to those proceedings to appear before it, in order that the Court may make such order or give such directions as it thinks fit, for the just, expeditious and economical disposal of the matter.

(2) Without prejudice to the generality of paragraph (1), the directions that the Court may give may include directions on —

(*a*) the giving of evidence orally or by affidavit; and

(*b*) the attendance of any party or person for cross-examination.

Withholding of information

151.—(1) The Court may order that any information or part of such information obtained by it under section 49(5) or 50(1A) or (2) must not be disclosed to any person specified in the order, if it is satisfied that such disclosure would be or would be likely to be detrimental to the physical or mental health or emotional well-being of any child, young person or other person to whom the information relates.

(2) The Court may make an order referred to in paragraph (1) either on its own motion or on a party's application.

(3) Despite this rule, where an appeal is brought to the High Court against an order of a Court made under section 49 or 50, a copy of the information and a copy of the part of the information which has been redacted (if any) under paragraph (1) must be forwarded to the High Court as part of the record of the proceedings to be sent to the High Court for the appeal.

PART 8

GUARDIANSHIP OF INFANTS ACT AND PROCEEDINGS RELATING TO INFANTS

Definitions and application

152.—(1) In this Part, unless the context otherwise requires —

"Act" means the Guardianship of Infants Act (Cap. 122);

"Syariah Court certificate of attendance" means a certificate of attendance issued by the Syariah Court under section 35A(7) of the Administration of Muslim Law Act (Cap. 3) in the form prescribed by the Muslim Marriage and Divorce Rules (Cap. 3, R 1);

"Syariah Court commencement certificate" means a commencement certificate issued by the Syariah Court under section 35A(4) of the Administration of Muslim Law Act in the form prescribed by the Muslim Marriage and Divorce Rules.

(2) Subject to this Part, Parts 1, 2, 3, 4 and 18 and Division 2 of Part 19 apply, with the necessary modifications, to proceedings under the Act.

Applications under Guardianship of Infants Act

153.—(1) An application under the Act with respect to an infant —

(*a*) may be made by summons, where there is any pending action or other proceedings by reason of which the infant is a ward of Court; and

(*b*) in any other case, must be made by originating summons.

(2) The plaintiff must file the documents referred to in paragraph (3) together with the application where he has notice, before the commencement of proceedings under this rule, that —

(*a*) proceedings for divorce between the same parties have been commenced in the Syariah Court;

(*b*) a decree or an order for divorce between the same parties has been made by the Syariah Court; or

(*c*) a divorce between the same parties has been registered under section 102 of the Administration of Muslim Law Act (Cap. 3).

(3) The documents that must be filed pursuant to paragraph (2) are —

(*a*) a Syariah Court commencement certificate; or

(*b*) the parties' written consent to the commencement of civil proceedings and the Syariah Court certificate of attendance.

(4) A party to any proceedings under this rule must file a notice of proceedings in the Syariah Court in Form 46 where he has notice, after the commencement of such proceedings, that —

(*a*) proceedings for divorce between the same parties have been commenced in the Syariah Court;

(*b*) a decree or an order for divorce between the same parties has been made by the Syariah Court; or

(*c*) a divorce between the same parties has been registered under section 102 of the Administration of Muslim Law Act.

Defendants to summons

154.—(1) Where the infant with respect to whom an application under the Act is made is not the plaintiff, he must not, unless the Court otherwise directs —

(*a*) be made a defendant to the originating summons; or

(*b*) if the application is made by summons in the proceedings, be served with the summons.

(2) Despite paragraph (1) and subject to paragraph (3), any other person appearing to be interested in, or affected by, the application must be made a defendant or be served with the summons, as the case may be.

(3) The Court may dispense with service of the originating summons or summons on any person and may order it to be served on any person not originally served.

Applications as to guardianship, maintenance, etc.

155.—(1) An application as to the guardianship, maintenance or advancement of infants may be disposed of in Chambers.

(2) A guardian's account must be verified and passed in the same manner as that provided by Division 26 of Part 18 in relation to a receiver's account or in such other manner as the Court may direct.

PART 9

INHERITANCE (FAMILY PROVISION) ACT

Definition and application

156.—(1) In this Part, "Act" means the Inheritance (Family Provision) Act (Cap. 138), and any reference to a section is to be construed as a reference to a section in the Act.

(2) Subject to this Part, Parts 1, 2, 3, 4 and 18 and Division 2 of Part 19 apply, with the necessary modifications, to proceedings under the Act.

Powers of Courts as to parties

157.—(1) Without prejudice to its powers under Division 9 of Part 18, the Court may at any stage of the proceedings under the Act by order direct that any person be added as a party to the proceedings or that notice of the proceedings be served on any person.

(2) Rule 361 applies to proceedings under the Act as it applies to the proceedings mentioned in paragraph (1) of that rule.

Affidavit in support

158. An application under section 3 must be made by originating summons supported

by an affidavit stating the grounds of the application.

Disposal of application in Chambers, etc.

159. Any application under the Act in which it appears to the Court that the interests of a minor or other person under disability are affected may, if the Court thinks fit so to direct, be disposed of in Chambers, but any order under section 3 or 6 must be made by the Judge in person.

Applications in proceedings under section 3

160. Where an order has been made on an application under section 3, any subsequent application must be made by summons in the proceedings, whether made —

(*a*) by a party to the proceedings in which such order was made;

(*b*) by a person on whom notice of the application for the order was served; or

(*c*) by or on behalf of such person mentioned in section 6(2).

Endorsement of memorandum on probate, etc.

161.—(1) The personal representatives of the deceased to whose estate an application under section 3 or 6 relates must produce in Court at the hearing of the application the probate or letters of administration under which the estate is being administered.

(2) If the Court makes an order under the Act or an order dismissing the application, the probate or letters of administration must remain in the custody of the Court until section 5(3) has been complied with.

(3) The memorandum of the order required by section 5(3) to be endorsed or annexed as mentioned in that section must set out the title of the proceedings in question and the operative part of the order in full.

(4) The requirements in paragraphs (1) and (2) to produce in Court and keep in custody the probate or letters of administration will apply only in cases where the Registry has issued a printed grant of probate or letters of administration.

PART 10

INTERNATIONAL CHILD ABDUCTION ACT

Definitions and application

162.—(1) In this Part, unless the context otherwise requires —

"Act" means the International Child Abduction Act (Cap. 143C), and any reference to a section is to be construed as a reference to a section in the Act;

"relevant child" means a child who is the subject of proceedings under Part III of the Act.

(2) Expressions used in this Part which are used in the Act have the same meanings in this Part as in the Act.

(3) Subject to this Part, Parts 1, 2, 3, 4, 18 and 19 apply, with the necessary modifications, to proceedings under Part III of the Act.

Commencement of proceedings

163. Unless otherwise provided in the Act or these Rules, every application to the Court under Part III of the Act must be made by originating summons in Form 47 or 48.

Title of proceedings

164. Every originating summons to which this Part relates, and all affidavits, notices and other documents in those proceedings, must be entitled in the matter of the Act and in the matter of the relevant child.

Parties to proceedings

165.—(1) Unless the Court otherwise orders, the parties to any proceedings under Part III of the Act are —

(*a*) the plaintiff or applicant; and

(*b*) any person referred to in paragraph (2) who is named as a defendant in the proceedings.

(2) A person named as a defendant in any proceedings under Part III of the Act must be one or more of the following:

(*a*) a person alleged to have wrongfully removed to or retained in Singapore, within the meaning of the Convention, the relevant child;

(*b*) a person with whom the relevant child is presumed to be;

(*c*) any parent or guardian of the relevant child, being a parent or guardian who is present in Singapore;

(*d*) a person in whose favour a decision relating to the custody of the relevant child has been made by any court, whether in or outside Singapore;

(*e*) a person who appears to the Court to have sufficient interest in the welfare of the relevant child.

(3) The Court may order that any person be joined as a party, if the Court considers that it is desirable to do so.

(4) The Court may at any time direct that any person who is a party to the proceedings be removed as a party.

Application for order under section 8

166.—(1) An application for an order under section 8 must be supported by an affidavit affirmed or sworn by the plaintiff or applicant or, if the circumstances of the case justify it, a person duly authorised to affirm or swear the affidavit on the plaintiff's or applicant's behalf.

(2) The affidavit must state all of the following:

(*a*) the particulars of all parties to the proceedings;

(*b*) the particulars of the relevant child, including, where available, his date of birth;

(*c*) the grounds on which the plaintiff's or applicant's claim for the return of the relevant child is based;

(*d*) the whereabouts of the relevant child in Singapore, and the particulars of any person with whom the relevant child is presumed to be;

(*e*) whether there are any court proceedings (including proceedings outside Singapore and concluded proceedings, whether in or outside Singapore) relating to the relevant child, and the particulars of any such proceedings and of any orders made in any such proceedings (including interim orders);

(*f*) any other information which may assist in securing the return of the relevant child.

(3) The application must exhibit —

(*a*) an authenticated copy of —

(i) any relevant decision relating to the custody of the relevant child made by any court, whether in or outside Singapore; and

(ii) any relevant agreement relating to the custody of the relevant child; and

(*b*) a certificate or an affidavit emanating from the Central Authority or any other competent authority of the Contracting State referred to in section 8(1), or from a person who is qualified to express an opinion on the relevant law of that State, concerning the relevant law of that State.

Application for declaration under section 14

167.—(1) An application for a declaration under section 14 must be supported by an affidavit affirmed or sworn by the plaintiff or applicant or, if the circumstances of the case justify it, by a person duly authorised to affirm or swear the affidavit on the plaintiff's or applicant's behalf.

(2) The affidavit must state all of the following:

(*a*) the particulars of the request made by the requesting judicial or administrative authorities referred to in Article 15 of the Convention;

(*b*) the particulars of all parties to the proceedings;

(*c*) the particulars of the relevant child, including, where available, his date of birth;

(*d*) the grounds of the application;

(*e*) the whereabouts of the relevant child in Singapore, and the particulars of any person with whom the relevant child is presumed to be;

(*f*) whether there are any court proceedings (including proceedings outside Singapore and concluded proceedings, whether in or outside Singapore) relating to the relevant child, and the particulars of any such proceedings and of any orders made in any such proceedings (including interim orders).

(3) The application must exhibit an authenticated copy of —

(*a*) any relevant decision relating to the custody of the relevant child made by any court, whether in or outside Singapore; and

(*b*) any relevant agreement relating to the custody of the relevant child.

Service of application on named defendants

168.—(1) Where an application under Part III of the Act is made by originating summons in Form 47, the plaintiff must serve the application, together with the affidavit filed in support of the application, on each person who is named as a defendant in the proceedings.

(2) The plaintiff must forward a copy of the application and the supporting affidavit to the Central Authority of Singapore as soon as practicable, and in any case not later than 7 days after the date on which the application is filed.

(3) Where there are pending proceedings in a court in Singapore relating to the custody, care and control of or access to the relevant child, the plaintiff must forward a copy of the application and the supporting affidavit to that court not later than 7 days after the date on which the application is filed.

(4) In this rule and rule 170, "court in Singapore" includes the Syariah Court and the Appeal Board constituted under the Administration of Muslim Law Act (Cap. 3).

Affidavit of service by plaintiff

169.—(1) Unless the Court otherwise directs or service of the application and supporting affidavit have been dispensed with, the plaintiff must file an affidavit of service to state —

(*a*) that the application, supporting affidavit and all documents required under rule 166 or 167 (as the case may be) have been served on every defendant;

(*b*) the date and place on which each defendant was served with the documents referred to in sub-paragraph (*a*);

(*c*) that each defendant has acknowledged receipt of service of the documents referred to in sub-paragraph (*a*); and

(*d*) that paragraphs (2) and (3) of rule 168 have been complied with.

(2) The plaintiff must file the affidavit of service no less than 2 clear days before the date of the hearing of an application under Part III of the Act.

(3) Where the plaintiff fails to comply with paragraphs (1) and (2), the application shall not be heard unless the Court otherwise directs.

Further evidence

170.—(1) A defendant must, not later than 14 days after the service of the application and the supporting affidavit by the plaintiff under rule 168(1), file any affidavit on which he intends to rely and serve a copy of the affidavit on the plaintiff and every other party to the proceedings.

(2) The defendant's affidavit must, where the plaintiff's affidavit does not so disclose, state the particulars of any court proceedings (including proceedings outside Singapore and concluded proceedings, whether in or outside Singapore) relating to the relevant

child, and of any orders made in any such proceedings (including interim orders).

(3) Where the defendant's affidavit discloses the particulars referred to in paragraph (2), the defendant must forward a copy of the affidavit to the Central Authority of Singapore as soon as practicable, and in any case not later than 7 days after the date on which the affidavit is filed.

(4) Where there are pending proceedings in a court in Singapore relating to the custody, care and control of or access to the relevant child, and where the defendant's affidavit discloses the particulars referred to in paragraph (2), the defendant must forward a copy of the affidavit to that court not later than 7 days after the date on which the affidavit is filed.

(5) The plaintiff may, not later than 7 days after the service of the defendant's affidavit, file an affidavit in reply and must serve a copy of the affidavit in reply on the defendant and every other party to the proceedings.

(6) Unless the Court otherwise directs, the defendant must file an affidavit of service, not less than 2 clear days before the date of the hearing of an application under Part III of the Act, to show that paragraphs (3) and (4) have been complied with.

Interim order

171. Where the proceedings before the Court involve a matter of urgency, an application for an interim order or an interim direction may be made by ex parte summons.

Obtaining authenticated copies of decisions

172.—(1) A person who makes an application under the Convention in a Contracting State (other than Singapore) and who wishes to obtain from the Court an authenticated copy of an order or a judgment of the Court relating to the relevant child must apply in writing to the Registrar.

(2) The authenticated copy of the order or judgment must be a copy endorsed with a certificate signed by the Registrar certifying that the copy is a true copy of an order or a judgment obtained in the Court.

Service of order of Court on Central Authority of Singapore

173. Any person who is granted any order by the Court under Part III of the Act must forward a copy of the order to the Central Authority of Singapore not later than 7 days after the date of the order.

Mediation and counselling

174.—(1) The Court may, if it considers it in the interests of the relevant child to do so, do either or both of the following:

(*a*) direct the parties to attend mediation;

(*b*) direct the parties or the relevant child, or both, to attend counselling.

(2) The mediation or counselling referred to in paragraph (1) shall be conducted by such person as the Court may appoint.

PART 11

MENTAL CAPACITY ACT

Definitions and application

175.—(1) In this Part, unless the context otherwise requires —

"Act" means the Mental Capacity Act (Cap. 177A), and any reference to a section is to be construed as a reference to a section in the Act;

"P" means a person who lacks or, so far as consistent with the context, is alleged to lack capacity (within the meaning of the Act) and to whom any proceedings under the Act relate;

"relevant person" means a person (other than a named defendant) who is specified in any practice directions to be a person to be served under rule 179 with an application under the Act, and different persons may be specified for different applications under the Act.

(2) Expressions used in this Part which are used in the Act have the same meanings in this Part as in the Act.

(3) Subject to this Part, Parts 1, 2, 3, 4 and 18 (except rules 657 to 660 and 668) and Division 2 of Part 19 apply, with the necessary modifications, to proceedings under the Act.

Commencement of proceedings

176.—(1) Unless otherwise provided in the Act or these Rules, every application to the Court under the Act must be made by originating summons in Form 47 or 48.

(2) Subject to section 38(1) and paragraph (3), the plaintiff or applicant must apply for permission to commence proceedings under the Act.

(3) The permission of the Court is not required where —

(*a*) an application is made by any person related by blood or marriage to P;

(*b*) an application is made for an order under section 36; or

(*c*) an application is made, to object to the registration of a lasting power of attorney, by a person named in that lasting power of attorney under paragraph 2(1)(*c*)(i) of the First Schedule to the Act as in force immediately before 1 September 2014.

Title of proceedings

177. Every originating summons to which this Part relates, and all affidavits, notices and other documents in those proceedings, must be entitled in the matter of the Act and in the matter of P.

Parties to proceedings

178.—(1) Unless the Court otherwise orders, the parties to any proceedings under the Act are —

(*a*) the plaintiff or applicant; and

(*b*) any person who is named as a defendant in the proceedings.

(2) The Court may order that a person be joined as a party, if the Court considers that it is desirable to do so.

(3) The Court may at any time direct that any person who is a party to the proceedings is to be removed as a party.

(4) Unless the Court otherwise orders, P shall not be named as a defendant to any proceedings under the Act.

Service of application on named defendants and relevant persons

179.—(1) Where an application under the Act is made by originating summons in Form 47 or 48, as soon as practicable, and in any event within 21 days, after the date on which the application is filed, the plaintiff or applicant must serve the application, together with each affidavit or other document filed in support of the application —

(*a*) on each relevant person; and

(*b*) if the application is made by originating summons in Form 47, on each person who is named as a defendant in the proceedings.

(2) In respect of each person who is named as a defendant in the proceedings and each relevant person, the plaintiff or applicant must, within 8 days after the date on which that person was served with the application, file an affidavit of service.

(3) The application, and the affidavits and other documents filed in support of the application, referred to in paragraph (1) —

(*a*) may, unless the Court otherwise directs, be served on a relevant person by ordinary service pursuant to rule 902; and

(*b*) must, if the application is made by originating summons in Form 47, be served on every defendant by personal service.

(4) Despite this rule, the Court may, on its own motion or on the plaintiff's or applicant's application, dispense with service of the application, the affidavits and any other document referred to in paragraph (1).

Application to be joined as party

180.—(1) Where a relevant person served with an application under rule 179(1) wishes to object to the application or any part of it, he must apply to the Court, within 21 days after the date on which he was served with the application, to be joined as a party to the proceedings.

(2) The relevant person's application under paragraph (1) must be supported by an affidavit, which must be filed at the same time as the application, stating his interest in the application and the grounds of his objection.

(3) Where a person who was not served with an application under rule 179(1) wishes to be heard in the proceedings, he must apply to the Court to be joined as a party to the proceedings.

General requirement to notify P of certain matters

181.—(1) Subject to paragraphs (6), (7) and (8) and rule 182, P must be notified —

(*a*) where an application under the Act has been filed or withdrawn, or a date has been fixed for the hearing of the application, of the filing or withdrawal of the application or of the date on which the application will be heard (as the case may be);

(*b*) where a notice of appeal against an order made by the Court under the Act has been filed or withdrawn, or a date has been fixed for the hearing of the appeal, of the filing or withdrawal of the notice of appeal or of the date on which the appeal will be heard (as the case may be);

(*c*) where an order which affects P has been made by the Court under the Act, of the effect of the order; and

(*d*) where the Court directs that P is to be notified, of such matters as the Court may direct.

(2) The notification must be effected on P in a manner appropriate to P's circumstances and in accordance with any practice directions, by —

(*a*) the plaintiff, applicant or appellant (as the case may be); or

(*b*) such other person as the Court may direct.

(3) Subject to paragraph (4), the notification must be effected on P as soon as practicable, and in any event within 21 days, after the date on which —

(*a*) the application referred to in paragraph (1)(*a*), or notice of appeal referred to in paragraph (1)(*b*), was filed or withdrawn (as the case may be);

(*b*) the person effecting the notification received notice from the Court of the date fixed for the hearing of the application referred to in paragraph (1)(*a*) or the appeal referred to in paragraph (1)(*b*) (as the case may be);

(*c*) the order referred to in paragraph (1)(*c*) was made; or

(*d*) the direction referred to in paragraph (1)(*d*) was given.

(4) Despite paragraph (3), where P is to be notified that a date has been fixed for the hearing of an application or appeal referred to in paragraph (1), the notification must be effected on P no later than 14 days before the date fixed for the hearing of the application or appeal (as the case may be).

(5) The person effecting the notification must, within 8 days after the date on which P was notified under this rule, file a certificate of notification which certifies —

(*a*) the date on which P was notified; and

(*b*) such other particulars concerning the notification of P as may be specified in any practice directions.

(6) Despite paragraph (1)(*a*), (*b*) or (*c*) —

(*a*) the plaintiff, applicant, appellant or other person directed by the Court to effect the notification may apply to the Court for an order to dispense with the requirement to notify P under this rule; and

(*b*) the Court may grant such an order.

(7) Where P is or is made a party to any proceedings under the Act —

(*a*) paragraphs (1)(*a*), (*b*) and (*c*) and (2) to (6) do not apply or will cease to apply (as the case may be); and

(*b*) if P has a litigation representative[3], all documents to be served on P must be served on his litigation representative[3].

(8) The Court may on its own motion dispense with the requirement to notify P.

Matters in respect of which P must be notified

182.—(1) Where P is to be notified that an application has been filed, the person effecting the notification must explain to P the following matters:

(*a*) who the plaintiff or applicant is, with sufficient particulars as to enable P to identify the plaintiff or applicant;

(*b*) that the application raises issues of whether P lacks capacity in relation to one or more matters in the application, and what this means;

(*c*) if the Court were to grant the application, the consequences and effect of the Court's decision to and on P;

(*d*) where the application is for the appointment of a deputy, the name of the person to be appointed as deputy, with sufficient particulars as to enable P to identify that person;

(*e*) the date on which the application is fixed for hearing.

(2) Where P is to be notified that an application has been withdrawn, the person effecting the notification must explain to P the following matters:

(*a*) that the application has been withdrawn;

(*b*) the consequences of the withdrawal of the application.

(3) Where P is to be notified that a notice of appeal has been filed, the person effecting the notification must explain to P the following matters:

(*a*) who the appellant is, with sufficient particulars as to enable P to identify the appellant;

(*b*) the issues raised in the appeal;

(*c*) if the Court were to allow or dismiss the appeal, the consequences and effect of the Court's decision to and on P;

(*d*) the date on which the appeal is fixed for hearing.

(4) Where P is to be notified that a notice of appeal has been withdrawn, the person effecting the notification must explain to P the following matters:

(*a*) that the notice of appeal has been withdrawn;

(*b*) the consequences of the withdrawal of the notice of appeal.

(5) Where P is to be notified that an order which affects P has been made by the Court, the person effecting the notification must explain to P the effect of the order.

(6) The person effecting the notification must also inform P that P may seek legal advice and assistance in relation to any matter of which P is notified.

Court may require attendance of P, etc.

183. The Court may require P, P's litigation representative[3] (if any) and any party to any proceedings under the Act to attend at any hearing of those proceedings.

Litigation representative[3] for P

184.—(1) Subject to paragraph (2), if P is or is made a party to any proceedings under the Act, P must have a litigation representative[3] for those proceedings.

(2) The Court may, on its own motion or on the application of any person (including P), permit P to conduct any proceedings under the Act without a litigation representative[3], if the Court is of the opinion that P does not lack capacity to conduct those proceedings himself (regardless of whether P lacks capacity in relation to the matter or matters to which the proceedings relate).

(3) Subject to paragraph (4), if there is a deputy appointed or deemed to be appointed by the Court under the Act, or a donee under a lasting power of attorney registered under the Act, with power in relation to P for the purposes of the Act, who is given power to conduct legal proceedings in P's name or on P's behalf, the deputy or donee (as the case may be) shall be P's litigation representative[3].

(4) Paragraph (3) does not apply in relation to any proceedings under the Act in which the deputy or donee (as the case may be) is a party in his own capacity.

(5) If there is no deputy or donee referred to in paragraph (3), or if paragraph (4) applies, the Court must appoint as a litigation representative[3] for P —

(*a*) any person who applies to be the litigation representative[3], and whom the Court is satisfied —

(i) is competent and willing to conduct proceedings on P's behalf; and

(ii) has no interests adverse to those of P; or

(*b*) if there is no such person —

(i) in any case where the proceedings relate solely to P's personal welfare, the Director of Social Welfare;

(ii) in any case where the proceedings relate solely to P's property and affairs, the Public Trustee; or

(iii) in any case where the proceedings relate both to P's personal welfare and to P's property and affairs, either the Director of Social Welfare acting alone, or both the Director of Social Welfare and the Public Trustee acting together, as the Court deems appropriate.

(6) A person may be appointed under paragraph (5) as a litigation representative[3] for P for all or any proceedings under the Act.

(7) The Court may, either on its own motion or on any person's application make an order for one or more of the following matters:

(*a*) to discharge or terminate the appointment of a litigation representative[3];

(*b*) to appoint a new litigation representative[3] in place of an existing litigation representative[3];

(*c*) that a person must not act as a litigation representative[3] for P in those proceedings.

(8) Practice directions may make additional or different provisions in relation to litigation representatives[3].

Applications to vary or amend orders

185.—(1) Subject to this Part, any application made in any proceedings under the Act must be by way of summons supported by an affidavit, which must be filed at the same

time as the summons.

(2) The applicant must, within 7 days after filing the summons and supporting affidavit, serve the summons and supporting affidavit —

(*a*) on every party to the proceedings and on every relevant person who had been served with the originating summons in the proceedings; and

(*b*) where an application is made to vary or amend an order of the Court, on the Public Guardian.

(3) The summons and supporting affidavit —

(*a*) must be served on every party to the proceedings by personal service, where the application is to amend or vary a Court order and the application is filed more than 6 months after the date of that Court order; or

(*b*) in any other case and unless the Court otherwise directs, may be served on every party to the proceedings by ordinary service pursuant to rule 902.

(4) Unless the Court otherwise directs, the summons and supporting affidavit for the application referred to in paragraph (1) may be served on a relevant person by ordinary service pursuant to rule 902.

(5) In respect of each person to be served with the application, the applicant must, within 8 days after the date on which the person was served with the application, file an affidavit of service.

(6) The Court may, on its own motion or on the applicant's application, dispense with service of the summons and the supporting affidavit.

Applications relating to lasting powers of attorney

186.—(1) Where the application relates to the powers of the Court under section 17 or 18, the plaintiff or applicant must serve all documents filed in respect of the application —

(*a*) unless he is the donor or a donee of the lasting power of attorney, on the donor and every donee of the power of attorney;

(*b*) if he is the donor of the lasting power of attorney, on every donee of the power of attorney; and

(*c*) if he is a donee of the lasting power of attorney, on the donor and every other donee of the power of attorney,

but only if those persons have not been served or notified under this Part or any direction

of the Court.

(2) The plaintiff must comply with paragraph (1) as soon as practicable, and in any event within 21 days, after the date on which the application was filed.

(3) In respect of each person to be served with the documents under paragraph (1), the plaintiff must, within 8 days after the date on which that person was served with those documents, file an affidavit of service.

(4) If the plaintiff knows or has reason to believe that the donor lacks capacity, he must notify the donor in accordance with any direction of the Court and with any practice directions.

Requirements for certain applications

187. Practice directions may make additional or different provisions in relation to the requirements for any application under the Act which is specified in those practice directions.

Reports under section 37

188.—(1) This rule applies where the Court requires a report to be made to it under section 37.

(2) The person who is required to make the report must assist the Court on matters within his expertise.

(3) Unless the Court otherwise directs, the person who is required to make the report must —

(*a*) contact or seek to interview such persons as he thinks appropriate or as the Court directs;

(*b*) to the extent that it is practicable and appropriate to do so, ascertain what P's wishes and feelings are, and the beliefs and values that would be likely to influence P if he had the capacity to make a decision in relation to the matter to which the application relates;

(*c*) describe P's circumstances; and

(*d*) address such other matters as are required in any practice directions or as the Court may direct.

(4) The Court may send a copy of the report, or an edited copy of the report, to the parties and to such persons as it deems appropriate.

(5) Subject to paragraphs (6) and (7), the person who is required to make the report may examine and take copies of any document in the Court records.

(6) The Court may direct that the right to inspect documents under this rule does not apply in relation to such documents, or descriptions of documents, as the Court may specify.

(7) The Court may direct that any information is to be provided on an edited basis to the person who is required to make the report.

(8) Where a report is made under section 37, the Court may, on the application of any party, permit written questions relevant to the issues before the Court to be put to the person who made the report.

(9) The questions referred to in paragraph (8) must be submitted to the Court, and the Court may put them to the person who made the report with such amendments (if any) as it thinks fit, and that person must give his replies in writing to the questions so put.

(10) The Court may send a copy of the replies referred to in paragraph (9) given by the maker of the report under this rule to the parties and to such other persons as it deems appropriate.

Public Guardian

189.—(1) Where the Court makes an order —

(*a*) appointing a person to act as a deputy;

(*b*) varying an order under which a deputy has been appointed;

(*c*) determining any question referred to in section 17(2);

(*d*) directing that an instrument purporting to create a lasting power of attorney is not to be registered; or

(*e*) revoking a lasting power of attorney, whether wholly or only so far as it relates to any of the donees,

a copy of the order will be served by the Registrar on the Public Guardian within 8 days after the date on which the order was drawn up and filed in accordance with rule 678, in order to enable the Public Guardian to discharge his functions under section 31 in relation to deputies and lasting powers of attorney.

(2) A copy of any order of the Court —

(*a*) requiring the Public Guardian to do something, or not to do something; or

(*b*) in respect of any matter which the Act requires the Public Guardian to be notified of,

will be served by the Registrar on the Public Guardian within 8 days after the date on which the order was drawn up and filed in accordance with rule 678.

Costs

190.—(1) The costs of proceedings under the Act shall be paid by P or charged to his estate, unless the Court otherwise directs.

(2) Where the Court orders that a deputy or a donee under a lasting power of attorney is entitled to remuneration out of P's estate for discharging his functions as such, the Court may make such order as it thinks fit, including an order that the deputy or donee (as the case may be) —

(*a*) be paid a fixed amount; or

(*b*) be paid at a specified rate.

Transitional provisions

191.—(1) This rule applies in any case where a person becomes a deputy by virtue of paragraph 1(2) of the Third Schedule to the Act.

(2) The deputy may make an application to the Court for —

(*a*) any decision in connection with the day-to-day management of P's property and affairs; or

(*b*) any supplementary decision which is necessary to give full effect to any order made, or directions given, before 1 March 2010 under Part I of the repealed Mental Disorders and Treatment Act (Cap. 178, 1985 Ed.) in force immediately before that date.

(3) The Court may, in determining any application under paragraph (2), treat the application as if it were an application to vary the functions or powers of the deputy, and may exercise its powers under section 20 accordingly.

(4) Without prejudice to section 24(10)(*b*), the Court may, on its own motion or on the application of any person, order the deputy to render to the Public Guardian such accounts relating to P as the Court may direct, even after the deputy has been discharged.

(5) The Court shall not make an order under paragraph (4) unless the deputy has been given an opportunity to be heard.

PART 12

LEGITIMACY ACT

Definition and application

192.—(1) In this Part, unless the context otherwise requires, "Act" means the Legitimacy Act (Cap. 162), and any reference to a section is to be construed as a reference to a section in the Act.

(2) Subject to this Part, Parts 1, 2, 3, 4, 18 and 19 apply, with the necessary modifications, to proceedings under the Act.

Commencement of proceedings

193. An application under section 4 must be made by originating summons in Form 47.

Title of proceedings

194. Every originating summons to which this Part relates, and all affidavits, notices and other documents in those proceedings, must be entitled in the matter of the Act and in the matter of the applicant.

Parties to proceedings

195.—(1) Unless the Court otherwise orders, the parties to any proceedings under the Act are —

(*a*) the applicant; and

(*b*) any person who is named as a defendant in the proceedings.

(2) A person (other than the Attorney-General) who is not a party to the proceedings and who wishes to be heard in the proceedings may apply to the Court to be joined as a party to those proceedings.

(3) The Court may at any time order that a person (other than the Attorney-General) be joined as a party to the proceedings, if the Court considers that it is desirable to do so.

(4) The Court may at any time direct that any person who is a party to the proceedings be removed as a party, if the Court considers it desirable to do so.

Supporting affidavit

196.—(1) The applicant must file, together with the originating summons, an

affidavit stating the grounds of the application.

(2) The Court may at any time direct that further evidence be adduced by way of affidavit to prove the absence of fraud and collusion.

Service of application and supporting affidavit on defendant

197.—(1) Where an application under section 4 is made by originating summons in Form 47, the applicant must, within 21 days after the date on which the application and supporting affidavit are filed, serve by personal service a copy of the application and supporting affidavit on each person who is named as a defendant in the proceedings.

(2) In respect of each person who is named as a defendant in the proceedings, the applicant must, within 8 days after the date on which that person was served with the application, file an affidavit of service.

(3) Despite this rule, the Court may, on its own motion or on the applicant's application, dispense with service of the application and supporting affidavit.

Objections and reply affidavits

198.—(1) A defendant who intends to object to an application by originating summons, or to adduce evidence with reference to the originating summons, must do so by affidavit.

(2) The affidavit referred to in paragraph (1) must be filed and a copy of the affidavit served on the applicant and on every other party to the proceedings within 21 days after being served with a copy of the applicant's application and supporting affidavit.

(3) The applicant must, if he wishes to reply to a defendant's affidavit, file and serve his affidavit on the defendant and on every other party to the proceedings within 21 days after being served with a copy of the defendant's affidavit.

(4) No further affidavit shall be received in evidence without the leave of the Court.

Service of application on Attorney-General

199.—(1) The applicant must, within 21 days after the application and supporting affidavit are filed, serve a copy of the application and supporting affidavit on the Attorney-General.

(2) The applicant must, within 8 days after the date on which the Attorney-General was served with the application, file an affidavit of service.

(3) If the Attorney-General wishes to intervene in the proceedings, he must file an affidavit and serve a copy of the affidavit on the applicant and on every other party to the

proceedings within 21 days after service of the application and supporting affidavit on him.

(4) Any party to the proceedings who wishes to reply to the Attorney-General's affidavit must file and serve the party's affidavit on the Attorney-General and on every other party to the proceedings within 21 days after being served with a copy of the Attorney-General's affidavit.

(5) No further affidavit shall be received in evidence without the leave of the Court.

Subsequent applications

200. Where an application has been made under section 4, any subsequent application must be made by summons in those proceedings.

PART 13

OATHS AND DECLARATIONS ACT

Definitions and application

201.—(1) This Part is made pursuant to section 7 of the Oaths and Declarations Act (Cap. 211), and applies in every instance when an oath or affirmation is taken or made, and administered.

(2) In this Part —

"Act" means the Oaths and Declarations Act;

"officer" means any person duly authorised to administer oaths and affirmations respectively.

Forms and formalities of oaths

202.—(1) Subject to rule 204, any oath under the Act shall be taken and administered in the form and manner prescribed in this rule.

(2) The person taking the oath —

(*a*) may place his left hand on the Bible or hold it in any manner as he may desire not repugnant to justice or decency and not purporting to affect any third person (unless before taking the oath he objects to do so); and

(*b*) must raise his right hand and say or repeat after the officer administering the oath the words set out, where applicable, in Form 49 or in any other

form as may be prescribed by law.

(3) The officer must (unless the person about to take the oath is permitted under the Act to do otherwise, or is physically incapable of so taking the oath) administer the oath in the form and manner set out in paragraph (2).

Forms and formalities of affirmation

203.—(1) Subject to rule 204, any affirmation under the Act must be made and administered in the form and manner prescribed in this rule.

(2) The person making the affirmation must raise his right hand and say or repeat after the officer administering the affirmation the words set out, where applicable, in Form 50 or in any other form as may be prescribed by law.

(3) The officer must (unless the person about to make the affirmation is permitted under the Act to do otherwise, or is physically incapable of so making the affirmation) administer the affirmation in the form and manner set out in paragraph (2).

Persons physically incapable of taking oath or making affirmation in manner prescribed

204. The officer may, in the case of a person who is physically incapable of taking the oath or making the affirmation in the form and manner prescribed in rule 202(2) or 203(2), as the case may be, administer the oath or affirmation in such form and manner as is appropriate or expedient in the circumstances.

Form of attestation[6], etc., in affidavit

205. The form of attestation[6], and the marking of an exhibit, in any affidavit must state whether the deponent has taken an oath or made an affirmation, as the case may be.

PART 14

PROBATE PROCEEDINGS

Division 1 — Non-contentious probate proceedings

Definitions and application

206.—(1) In these Rules, unless the context otherwise requires —

"oath" means the oath under section 28 of the Act;

"record of caveats" refers to the information kept by the Registry of caveats entered in proceedings under the Act;

"record of probate applications" refers to the information kept by the Registry of probate applications and actions made under the Act;

"statutory guardian" means a guardian of an infant appointed by the Court under section 5, 6 or 8 of the Guardianship of Infants Act (Cap. 122) or a person granted custody, care and control of an infant under Part III of the Administration of Muslim Law Act (Cap. 3) or Part X, Chapter 5 of the Women's Charter (Cap. 353);

"testamentary guardian" means a person as defined in section 7 of the Guardianship of Infants Act;

"trust corporation" means a company licensed as a trust company under the Trust Companies Act (Cap. 336) and includes the Public Trustee;

"will" includes a nuncupative will and any testamentary document or copy or reconstruction thereof.

(2) In this Division, unless the context otherwise requires, "Act" means the Probate and Administration Act (Cap. 251), and any reference to a section is to be construed as a reference to a section in the Act.

(3) Subject to this Division, Parts 1, 2, 3, 4, 18 and 19 apply, with the necessary modifications, to non-contentious probate proceedings.

Duty of Registrar on receiving application for grant

207.—(1) The Registrar must not allow any grant to issue until all inquiries which he may see fit to make have been answered to his satisfaction.

(2) The Registrar may require proof of the identity of the deceased or of the applicant for the grant beyond that contained in the originating summons.

(3) Except with the leave of the Registrar —

(*a*) no grant of probate or of administration with the will annexed shall issue within 7 days after the deceased's death; and

(*b*) no grant of administration shall issue within 14 days after the deceased's death.

Application for grant

208.—(1) An application for a grant must be by ex parte originating summons.

(2) Within 14 days after filing the originating summons, the applicant must file an affidavit verifying the information in the Statement in Form 51 and there must be exhibited to the affidavit —

(*a*) a Statement in Form 51;

(*b*) a certified true copy of the will; and

(*c*) all other supporting papers as the Registrar may require.

(3) The applicant for a grant or his solicitors must —

(*a*) conduct a search on the record of caveats and the record of probate applications immediately prior to the filing of the originating summons; and

(*b*) endorse a certificate in Form 52 on the originating summons stating whether there are any caveats or pending probate applications in respect of the deceased's estate.

(4) On an application for a grant of administration, the Statement in Form 51 must state —

(*a*) whether, and, if so, in what manner all persons having a prior right to a grant have been cleared of; and

(*b*) whether any minority or life interest arises under the will or intestacy.

(5) Where the deceased died domiciled outside Singapore, the Statement in Form 51 must state where the deceased died domiciled.

(6) If the Statement in Form 51 states where the deceased died domiciled (whether in or outside Singapore) a statement as to the country in which he died domiciled may be included in the grant.

(7) A Statement in Form 51 must state the following:

(*a*) where any person is named as a relative of the deceased —

(i) he must, if a lawful relative, be so described; and

(ii) where the legality of any such relationship is alleged by virtue of any law or custom, such law or custom;

(*b*) where it is alleged that any person is entitled to share in the distribution of an intestate's estate —

(i) how such person is related to the deceased and whether he is the only or one of the next-of-kin; and

(ii) by what law or custom that person is so entitled.

(8) Where an application for a grant is, for the first time, made after the lapse of 6 months from the deceased's death, the Statement in Form 51 must set out the reason for the delay in making the application.

Grant in additional name

209. Where it is necessary to describe the deceased in a grant by some name in addition to his true name, the applicant must state in the Statement in Form 51 —

(*a*) the true name of the deceased; and

(*b*) that some part of the estate, specifying it, was held in the other name, or as to any other reason that there may be for the inclusion of the other name in the grant.

Engrossments for purposes of record

210.—(1) Where the Registrar considers that in any particular case a photographic copy of the original will would not be satisfactory for the purposes of record, he may require an engrossment suitable for photographic reproduction to be filed.

(2) Where a will contains alterations which are not admissible to proof, there must be filed an engrossment of the will in the form in which it is to be proved.

(3) Any engrossment filed must reproduce the punctuation, spacing and division into paragraphs of the will.

(4) Where any pencil writing appears on a will, there must be filed a copy of the will or of the pages or sheets containing the pencil writing, in which there must be underlined in red ink those portions which appear in pencil in the original.

Evidence as to due execution of will

211.—(1) Where a will contains no attestation clause or the attestation clause is insufficient or where it appears to the Registrar that there is some doubt about the due execution of the will, he shall, before admitting it to proof, require an affidavit as to due

execution —

(*a*) from one or more of the attesting witnesses; or

(*b*) if no attesting witness is conveniently available, from any other person who was present at the time the will was executed.

(2) If no affidavit can be obtained in accordance with paragraph (1), the Registrar may, if he thinks fit having regard to the desirability of protecting the interest of any person who may be prejudiced by the will, accept evidence on affidavit from any person the Registrar may think fit to show that the signature on the will is in the handwriting of the deceased, or of any other matter which may raise a presumption in favour of the execution of the will.

(3) The Registrar, after considering the evidence —

(*a*) must, if he is satisfied that the will was not duly executed, refuse probate and order accordingly; or

(*b*) may, if he is doubtful whether the will was duly executed, refer the matter to the Court.

Execution of will of blind or illiterate testator

212. Before admitting to proof a will which appears to have been signed by a blind or illiterate testator or by another person by direction of the testator, or which for any other reason gives rise to doubt as to the testator having had knowledge of the contents of the will at the time of its execution, the Registrar must satisfy himself that the testator had such knowledge.

Evidence as to terms, conditions and date of execution of will

213.—(1) Where there appears in a will any obliteration, interlineation, or other alteration which is not authenticated in the manner prescribed by section 16 of the Wills Act (Cap. 352), or by the re-execution of the will or by the execution of a codicil, the Registrar shall —

(*a*) require evidence to show whether the alteration was present at the time the will was executed; and

(*b*) give directions as to the form in which the will is to be proved.

(2) Paragraph (1) does not apply to any alteration which appears to the Registrar to be of no practical importance.

(3) If from any mark on the will it appears to the Registrar that some other document

has been attached to the will, or if a will contains any reference to another document in such terms as to suggest that it ought to be incorporated in the will, the Registrar may —

(*a*) require the document to be produced; and

(*b*) call for such evidence in regard to the attaching or incorporation of the document as the Registrar thinks fit.

(4) Where there is a doubt as to the date on which a will was executed, the Registrar may require such evidence as he thinks necessary to establish the date.

Attempted revocation of will

214. Any appearance of attempted revocation of a will by burning, tearing or otherwise, and every other circumstance leading to a presumption of revocation by the testator, must be accounted for to the Registrar's satisfaction.

Affidavit as to due execution, terms, etc., of will

215.—(1) The Registrar may require an affidavit from any person he may think fit for the purpose of satisfying himself as to any of the matters referred to in rules 212, 213 and 214.

(2) Where an affidavit referred to in paragraph (1) is sworn by an attesting witness or other person present at the time of the execution of a will the deponent must depose to the manner in which the will was executed.

Wills not proved under section 6 of Wills Act

216. Nothing in rule 211, 212, 213 or 214 is to apply to any will which it is sought to establish otherwise than by reference to section 6 of the Wills Act (Cap. 352), but the terms and validity of any such will must be established to the Registrar's satisfaction.

Wills of persons on military service and seamen

217. If it appears to the Registrar that there is prima facie evidence that a will is one to which section 27 of the Wills Act (Cap. 352) applies, the will may be admitted to proof if the Registrar is satisfied that it was signed by the testator or, if unsigned, that it is in the testator's handwriting.

Evidence of foreign law

218.—(1) Where evidence of the law of a country outside Singapore is required on any application for a grant, the affidavit of any person who practises, or has practised, as

a barrister or an advocate in that country and who is conversant with its law may be accepted by the Registrar unless the deponent is a person claiming to be entitled to the grant or his attorney, or is the spouse of any such person or attorney.

(2) Despite paragraph (1), the Registrar may in special circumstances accept the affidavit of any other person who does not possess the qualifications required by this rule if the Registrar is satisfied that, by reason of that person's official position or otherwise, that person has knowledge of the law of the country in question.

Order of priority for grant where deceased left will

219. The person or persons entitled to a grant of probate or administration with the will annexed must be determined in accordance with sections 8 and 13.

Grants to attesting witnesses, etc.

220. Where a gift to any person fails by reason of section 10 of the Wills Act (Cap. 352), such person shall not have any right to a grant as a beneficiary named in the will, without prejudice to his right to a grant in any other capacity.

Order of priority for grant in case of intestacy

221. Where the deceased died wholly intestate, the person entitled to a grant of administration must be determined in accordance with section 18.

Right of assignee to grant

222.—(1) Where all the persons entitled to the deceased's estate (whether under a will or on intestacy) have assigned their whole interest in the estate to one or more persons, the assignee or assignees shall replace, in the order of priority for a grant of administration, the assignor or, if there are 2 or more assignors, the assignor with the highest priority.

(2) Where there are 2 or more assignees, administration may be granted with the consent of the others to any one or more (not exceeding 4) of them.

(3) In any case where administration is applied for by an assignee, a copy of the instrument of assignment must be filed with the Registry.

Additional personal representatives

223.—(1) An application under section 6(4) to add a personal representative must —

(*a*) be made by summons to the Registrar; and

(*b*) be supported by an affidavit by the applicant, the consent of the person proposed to be added as personal representative and such other evidence as the Registrar may require.

(2) A summons under paragraph (1) must be served on all persons entitled in the same degree as the applicant.

(3) On any such application the Registrar may direct that a note shall be made on the original grant of the addition of a further personal representative, or he may impound or revoke the grant or make such other order as the circumstances of the case may require.

Grants where 2 or more persons entitled in same degree

224.—(1) A grant may be made to any person entitled to the grant without notice to other persons entitled in the same degree.

(2) A dispute between persons entitled to a grant in the same degree must be brought by summons before the Registrar.

(3) Unless the Registrar otherwise directs, administration must be granted to a living person in preference to the personal representative of a deceased person who would, if living, be entitled in the same degree and to a person not under disability in preference to an infant entitled in the same degree.

(4) If the issue of a summons under this rule is known to the Registrar, he must not allow any grant to be extracted until such summons is finally disposed of.

Exceptions to rules as to priority

225.—(1) Nothing in rule 219, 221 or 224 shall operate to prevent a grant being made to any person to whom a grant may or may be required to be made under any written law.

(2) The rules mentioned in paragraph (1) do not apply where the deceased died domiciled outside Singapore, except in a case to which rule 227(2) applies.

Grants to persons having expectation of succession[13]

226. When the beneficial interest in the whole estate of the deceased is vested absolutely in a person who has renounced his right to a grant and has consented to administration being granted to the person or persons who would be entitled to his estate if he himself had died intestate, administration may be granted to such person or one or more (not exceeding 4) of such persons.

Grants where deceased died domiciled outside Singapore

227.—(1) Where the deceased died domiciled outside Singapore, an application may be made to the Registrar for an order for a grant —

(*a*) to the person entrusted with the administration of the estate by the Court having jurisdiction at the place where the deceased died domiciled;

(*b*) to the person entitled to administer the estate by the law of the place where the deceased died domiciled;

(*c*) if there is no such person as is mentioned in sub-paragraph (*a*) or (*b*) or if in the opinion of the Registrar the circumstances so require, to such person as the Registrar may direct; or

(*d*) if, by virtue of section 6, a grant is required to be made to, or if the Registrar in his discretion considers that a grant should be made to, not less than 2 administrators, to such person as the Registrar may direct jointly with any such person as is mentioned in sub-paragraph (*a*) or (*b*) or with any other person.

(2) Despite paragraph (1), where there is no such application referred to in that paragraph —

(*a*) probate of any will which is admissible to proof may be granted —

(i) if the will is in the English language, to the executor named in the will; or

(ii) if the will describes the duties of a named person in terms sufficient to constitute him as an executor according to the tenor of the will, to that person; and

(*b*) where the whole of the estate in Singapore consists of immovable property, a grant limited to that immovable property may be made in accordance with the law which would have been applicable if the deceased had died domiciled in Singapore.

Grants to attorneys

228.—(1) Where a person entitled to a grant resides outside Singapore, administration may be granted to his lawfully constituted attorney for that person's use and benefit, limited until that person obtains a grant or in such other way as the Registrar may direct.

(2) Administration may be granted to a lawfully constituted attorney provided the attorney files a certified true copy of the power of attorney with the originating summons

or proves that he has deposited it or a certified copy of it in the Registry of the Supreme Court in the manner provided by the Conveyancing and Law of Property Act (Cap. 61).

(3) Despite paragraphs (1) and (2), where the person so entitled is an executor, administration must not be granted to his attorney without notice to the other executors, if any, unless such notice is dispensed with by the Registrar.

Grants on behalf of infants

229.—(1) Where the person to whom a grant would otherwise be made is an infant, administration for his use and benefit until he attains the age of 21 years shall, subject to paragraphs (3), (4) and (6), be granted —

(*a*) to both parents of the infant jointly or to the statutory or testamentary guardian of the infant or to any guardian appointed by a court of competent jurisdiction; or

(*b*) if there is no such guardian able and willing to act and the infant has attained the age of 16 years —

(i) to any next-of-kin nominated by the infant; or

(ii) where the infant is a married woman, to any such next-of-kin or to her husband if nominated by her.

(2) Any person nominated under paragraph (1)(*b*) may represent any other infant whose next-of-kin he is, being an infant below 16 years old entitled in the same degree as the infant who made the nomination.

(3) Despite this rule, administration for the use and benefit of the infant until he attains the age of 21 years may be granted to any person assigned as guardian by order of the Registrar in default of, or jointly with, or to the exclusion of, any such person as is mentioned in paragraph (1).

(4) An order referred to in paragraph (3) may be made on application by the intended guardian, who must file an affidavit in support of the application and, if required by the Registrar, an affidavit of fitness sworn by a responsible person.

(5) Where by virtue of section 6, a grant is required to be made to not less than 2 administrators and there is only one person competent and willing to take a grant under paragraphs (1), (2) and (3), administration may, unless the Registrar otherwise directs, be granted to such person jointly with any other person nominated by him as a fit and proper person to take the grant.

(6) Where an infant who is sole executor has no interest in the residuary estate of the

deceased, administration for the use and benefit of the infant until he attains the age of 21 years must, unless the Registrar otherwise directs, be granted to the person entitled to the residuary estate.

(7) An infant's right to administration may be renounced only by a person assigned as guardian under paragraph (3) and authorised to renounce by the Registrar.

Grants where infant is co-executor

230.—(1) Where one of 2 or more executors is an infant —

(*a*) probate may be granted to the other executor or executors not under disability, with power reserved of making the like grant to the infant on his attaining the age of 21 years; and

(*b*) administration for the use and benefit of the infant until he attains the age of 21 years may be granted under rule 229 if and only if the executors who are not under disability renounce or, on being cited to accept or refuse a grant, fail to make an effective application thereof.

(2) An infant executor's right to probate on attaining the age of 21 years may not be renounced by any person on his behalf.

Grants in case of lack of mental capacity or of physical incapacity

231.—(1) Where the Registrar is satisfied that a person entitled to a grant (called in this rule the relevant person) is, by reason of lack of capacity (within the meaning of the Mental Capacity Act (Cap. 177A)) or physical incapacity, incapable of managing himself or his affairs, administration for his use and benefit, limited during the period of such lack of capacity or physical incapacity or in such other way as the Registrar may direct, may be granted —

(*a*) in the case of lack of capacity —

(i) to the person authorised by the Court; or

(ii) to the donee authorised to make decisions about the relevant person's property and affairs under a lasting power of attorney; or

(*b*) where there is no person so authorised, or in the case of physical incapacity —

(i) if the relevant person is entitled as executor, to the person entitled to the residuary estate of the deceased;

(ii) if the relevant person is entitled otherwise than as an executor, to the person who would be entitled to a grant in respect of his estate if he had died intestate; or

(iii) to such other person as the Registrar may by order direct.

(2) Unless the Registrar otherwise directs, no grant of administration shall be made under paragraph (1) unless all persons entitled in the same degree as the relevant person have been cleared off.

(3) In the case of physical incapacity, notice of intended application for a grant under paragraph (1) must, unless the Registrar otherwise directs, be given to the relevant person.

Grants to trust corporations and other corporate bodies

232.—(1) Where a trust corporation applies for a grant through one of its officers, such officer must —

(*a*) file an affidavit exhibiting a certified copy of the resolution authorising him to make the application; and

(*b*) state in the affidavit that the corporation is a trust corporation, and that it has power to accept a grant.

(2) Where a trust corporation applies for a grant of administration otherwise than as attorney for some person, the affidavit must also exhibit the consents of all persons entitled to a grant and of all persons interested in the residuary estate of the deceased, unless the Registrar directs that such consents be dispensed with on such terms, if any, as he may think fit.

(3) Where a corporation (not being a trust corporation) would, if an individual, be entitled to a grant —

(*a*) administration for its use and benefit, limited until further representation is granted, may be granted —

(i) to its nominee; or

(ii) if the corporation has its principal place of business outside Singapore, its nominee or lawfully constituted attorney; and

(*b*) a copy of the resolution appointing the nominee or, as the case may be, the power of attorney, sealed by the corporation or otherwise authenticated to

the Registrar's satisfaction, must be exhibited in the affidavit filed for the grant, and the affidavit must state that the corporation is not a trust corporation.

Renunciation of probate and administration

233.—(1) Renunciation of probate by an executor shall not operate as renunciation of any right which he may have to a grant of administration in some other capacity unless he expressly renounces such right.

(2) Unless the Registrar otherwise directs, no person who has renounced administration in one capacity may obtain a grant of administration in some other capacity.

(3) A renunciation of probate or administration may be retracted at any time by leave of the Court in accordance with section 5.

(4) Despite paragraph (3), leave may be given only in exceptional circumstances to an executor to retract a renunciation of probate after a grant has been made to some other person entitled in a lower degree.

(5) A written renunciation of a right to a grant under section 3 must be in one of the forms in Form 53.

Notice to Attorney-General of intended application for grant

234. In any case in which it appears that the Government is or may be beneficially interested in the estate of a deceased person —

(*a*) notice of intended application for a grant must be given by the applicant to the Attorney-General; and

(*b*) the Registrar may direct that no grant shall issue within a specified time after the notice has been given.

Administration oath

235. An administration oath under section 28 must be in Form 54 and must be attested by a commissioner for oaths.

Administration bonds

236.—(1) An administration bond under section 29 must be in Form 55 and the signature of the administrator and any surety (not being, in either case, a corporation)

must be attested by a commissioner for oaths.

(2) Except in a case to which paragraph (3) applies or where the Registrar otherwise directs, there must be 2 sureties to every administration bond.

(3) No surety shall be required on an application for a grant of administration —

(*a*) by a trust corporation, whether alone or jointly with an individual;

(*b*) by an employee of the Government acting in his official capacity; or

(*c*) where the deceased left no estate.

(4) The Registrar must so far as possible satisfy himself that every surety to an administration bond is a responsible person.

(5) Unless the Registrar otherwise directs, no person shall be accepted as a surety unless he is resident in Singapore.

(6) No officer of the Registry shall become a surety without the leave of the Registrar.

(7) Where the proposed surety is a corporation (other than a trust corporation), the proper officer of the corporation must file an affidavit —

(*a*) to the effect that it has power to act as surety and has executed the bond in the manner prescribed by its constitution; and

(*b*) containing sufficient information as to the financial position of the corporation to satisfy the Registrar that its assets are sufficient to satisfy all claims which may be made against it under any administration bond in respect of which it is or is likely to become a surety.

(8) Despite paragraph (7), the Registrar may, instead of requiring an affidavit in every case, accept an affidavit made no less than once in every year together with an undertaking by the corporation to notify the Registrar forthwith in the event of any alteration in its constitution affecting its power to become surety to administration bonds.

(9) An application under section 31 for an order to assign an administration bond must —

(*a*) be made by summons to the Registrar; and

(*b*) be served on the administrator and on every surety.

Forms of grants and request to extract grant

237.—(1) A grant made under the Act and this Division must be in one of the forms

in Form 56.

(2) Before filing a Request[4] to extract a grant, the applicant or his solicitors must conduct a search on the record of caveats and the record of probate applications to ascertain if there are any caveats in force or pending probate applications in respect of the deceased's estate.

(3) The Request[4] to extract a grant must contain a certificate in the following terms:

> "It is certified that searches of the record of caveats and record of probate applications have been carried out not more than one day before the date of this Request and at the time of the searches there were no caveats in force, and no pending probate applications in respect of the deceased's estate herein.".

Amendment and revocation of grant

238.—(1) If the Registrar is satisfied that a grant should be amended or revoked he may make an order accordingly.

(2) Despite paragraph (1), a grant may only be amended or revoked under this rule —

(*a*) in special circumstances; or

(*b*) on the application or with the consent of the person to whom the grant was made.

Caveats

239.—(1) Any person may, at any time after the death of a deceased person and before probate or letters of administration have been granted to his estate, enter a caveat if he wishes to —

(*a*) ensure that no grant is made without notice to the person; and

(*b*) be given an opportunity to contest the right to a grant.

(2) Any person who wishes to enter a caveat (called the caveator) may do so by filing the caveat in Form 57.

(3) Except as otherwise provided by this Division, a caveat shall remain in force for 6 months from the date on which it is entered and shall then cease to have effect, without prejudice to the entry of a further caveat or caveats.

(4) The Registrar must maintain a record of caveats and on receiving an application for a grant, he must cause the record of caveats to be searched.

(5) The Registrar must not make any grant if he has knowledge of an effective caveat in respect of the grant.

(6) Despite paragraph (5), no caveat shall operate to prevent the making of a grant on the day on which the caveat is filed.

(7) A caveator may be warned by the issue from the Registry of a warning in Form 58 at the instance of any person interested (called in this rule the person warning) which must state his interest and, if he claims under a will, the date of the will, and must require the caveator to give particulars of any contrary interest which he may have in the deceased's estate.

(8) Every warning referred to in paragraph (7) or a copy of the warning must be served on the caveator.

(9) A caveator who has not entered an appearance in Form 59 to a warning may at any time withdraw his caveat by filing a notice of withdrawal and the caveat shall thereupon cease to have effect.

(10) Where a caveator who has been warned withdraws his caveat under paragraph (9), he must serve the notice of withdrawal of the caveat to the person warning.

(11) A caveator having an interest contrary to that of the person warning —

(*a*) may, within 8 days after service of the warning on him, or at any time thereafter if no summons and affidavit have been filed under paragraph (14), enter an appearance in Form 59; and

(*b*) must serve on the person warning a copy of the appearance.

(12) A caveator having no interest contrary to that of the person warning but wishing to show cause against the making of a grant to that person —

(*a*) may, within 8 days after service of the warning on him, or at any time thereafter if no summons and affidavit have been filed under paragraph (14), enter an appearance in Form 59; and

(*b*) must serve on the person warning a copy of the appearance.

(13) A caveator who enters an appearance must, unless the Court gives leave to the contrary, file and serve a summons for directions before the expiration of 14 days after the time limited for appearing.

(14) If the time limited for appearance in Form 59 has expired and the caveator has not entered an appearance, or having entered an appearance the caveator has not served a

summons for directions under paragraph (13), the person warning may file an affidavit showing that the warning was duly served and apply by summons for an order for the caveat to cease to have effect.

(15) Except with the leave of the Registrar, no further caveat may be entered by or on behalf of any caveator whose caveat has ceased to have effect under paragraph (14) or rule 242.

(16) Upon the issuance of a summons for directions under paragraph (13), the matter shall be deemed to be contested and the expenses of entry of such caveat, the warning thereof, the appearance and the issuance of the summons for directions shall be considered as costs in the cause.

(17) In this rule, "grant" includes a grant by any court outside Singapore which is produced for resealing.

Contested matters

240. Every contested matter must be referred to a Judge who may dispose of the matter in dispute in a summary manner or direct that the provisions of Division 2 of this Part are to apply.

Notice of commencement of probate action

241. Upon the commencement of a probate action, the Registrar is, in respect of each caveat then in force (other than a caveat entered by a party to the probate action), to give to the caveator notice of the commencement of the action and, upon the subsequent entry of a caveat at any time when the action is pending, is to likewise notify the caveator of the existence of the action.

Effect of caveat, etc., upon commencement of probate action

242. Unless the Registrar by order made on summons otherwise directs —

(*a*) any caveat in force at the commencement of proceedings by way of citation shall, unless withdrawn pursuant to rule 239(9), remain in force until an application for a grant is made by the person shown to be entitled to the grant by the decision of the Court in such proceedings, and upon such application any caveat entered by a party who had notice of the proceedings shall cease to have effect;

(*b*) any caveat in respect of which a summons for directions has been issued shall remain in force until the commencement of a probate action or the making of an order for the caveat to cease to have effect; and

(*c*) the commencement of a probate action shall, whether or not any caveat has been entered, operate to prevent the sealing of a grant (other than a grant under section 20) until application for a grant is made by the person shown to be entitled to the grant by the decision of the Court in such action, and upon such application any caveat entered by a party who had notice of the action, or by a caveator who was given notice under rule 241, shall cease to have effect.

Citations

243.—(1) Every citation in one of the forms in Form 60 must issue from the Registry.

(2) Every averment in a citation, and such other information as the Registrar may require, must be verified by an affidavit sworn by the person issuing the citation (called in these Rules the citor) or, if there are 2 or more citors, by one of them.

(3) Despite paragraph (2), the Registrar may in special circumstances accept an affidavit sworn by the citor's solicitor.

(4) The citor must enter a caveat before issuing a citation.

(5) Every citation must be served personally on the person cited unless the Registrar, on cause shown by affidavit, directs some other mode of service, which may include notice by advertisement.

(6) Where a citation refers to a will, a copy of the will must be filed in the Registry before the citation is issued, except where the will or a copy of it is not in the citor's possession and the Registrar is satisfied that it is impracticable to require it to be filed.

(7) A person who has been cited to appear may, within 8 days after service of the citation upon him, or, at any time thereafter if no application has been made by the citor under rule 244(6) or 245(2), enter an appearance in Form 59 in the Registry.

(8) The person who has been cited and who has entered an appearance under paragraph (7) must serve on the citor a copy of the appearance sealed with the seal of the Family Justice Courts.

Citation to accept or refuse or to take grant

244.—(1) A citation to accept or refuse a grant may be issued at the instance of any person who would himself be entitled to a grant in the event of the person cited renouncing his right to the grant.

(2) Where power to make a grant to an executor has been reserved, a citation calling on him to accept or refuse a grant may be issued at the instance —

(*a*) of the executors who have proved the will; or

(*b*) of the executors of the last survivor of deceased executors who have proved the will.

(3) A citation calling on an executor who has intermeddled in the deceased's estate to show cause why the executor should not be ordered to take a grant may be issued at the instance of any person interested in the estate at any time after the expiration of 6 months from the deceased's death.

(4) Despite paragraph (3), no citation to take a grant must issue while proceedings as to the validity of the will are pending.

(5) A person cited who is willing to accept or take a grant may apply by ex parte originating summons to the Registrar for an order for a grant on filing an affidavit showing that he has entered an appearance in Form 59 and that he has not been served by the citor with notice of any application for a grant to himself.

(6) If the time limited for appearance has expired and the person cited has not entered an appearance, the citor may —

(*a*) in the case of a citation under paragraph (1), apply to the Registrar for leave to apply for a grant to himself;

(*b*) in the case of a citation under paragraph (2), apply to the Registrar for an order that a note be made on the grant that the executor in respect of whom power was reserved has been duly cited and has not appeared and that all his rights in respect of the executorship have wholly ceased; and

(*c*) in the case of a citation under paragraph (3), apply to the Registrar by summons (which must be served on the person cited) for an order requiring such person to take a grant within a specified time or for leave to apply for a grant to himself or some other person specified in the summons.

(7) An application under paragraph (6) must be supported by an affidavit showing that the citation was duly served and that the person cited has not entered an appearance.

(8) If the person cited has entered an appearance but has not applied for a grant under paragraph (5), or has failed to prosecute his application with reasonable diligence, the citor may —

(*a*) in the case of a citation under paragraph (1), apply by summons to the Registrar for leave to apply for a grant to himself;

(*b*) in the case of a citation under paragraph (2), apply by summons to the

Registrar for an order striking out the appearance and for the endorsement on the grant of such a note as is mentioned in paragraph (6)(*b*); and

(*c*) in the case of a citation under paragraph (3), apply by summons to the Registrar for an order requiring the person cited to take a grant within a specified time or for leave to apply for a grant to himself or some other person specified in the summons.

(9) The summons referred to in paragraph (8) must be served on the person cited.

Citation to propound will

245.—(1) A citation to propound a will must be directed to the executors named in the will and to all persons interested under the will, and may be issued at the instance of any citor having an interest contrary to that of the executors or such other persons.

(2) If the time limited for appearance has expired and no person cited has entered an appearance, or if no person who has appeared proceeds with reasonable diligence to propound the will, the citor may apply by summons for leave to apply for a grant as if the will were invalid.

Address for service

246. All caveats, citations, warnings and appearances must contain an address for service within the jurisdiction.

Application for order to bring in will or to attend for examination

247. An application under section 54, for an order requiring a person to bring in a will or to attend for examination, must be made to a Judge by originating summons or summons, as the case may be, and the originating summons or summons must be served on every such person.

Applications in respect of nuncupative wills and of copies of wills

248.—(1) An application for an order admitting to proof a nuncupative will, or a will contained in a copy, a completed draft, a reconstruction or other evidence of its contents where the original will is not available, may be made to the Court by originating summons.

(2) Despite paragraph (1), where a will is not available because it is retained in the custody of a foreign court or official, a duly authenticated copy of the will may be admitted to proof by virtue of section 11 without an order referred to in that paragraph.

(3) The application must be supported by an affidavit setting out the grounds of the application and by such evidence on affidavit as the applicant can adduce as to —

(*a*) the due execution of the will;

(*b*) its existence after the death of the testator or the fact on which the applicant relies to rebut the presumption that the will has been revoked by destruction; and

(*c*) the accuracy of the copy or other evidence of the contents of the will.

(4) Any consent in writing to the application given by any person not under disability who would be prejudiced by the grant must be exhibited in the affidavit filed in support of that application.

Issue of copies of will, etc.

249.—(1) A copy of the whole or any part of a will which has been deposited in the Registry, may, on payment of the prescribed fee, be obtained from the Registry.

(2) Where copies are required of original wills or other documents deposited in the Registry, such copies may be photographic copies certified under the hand of the Registrar to be true copies and sealed with the seal of the Family Justice Courts.

Inspection, etc., of original will or other testamentary documents

250.—(1) Any original will or other testamentary document that is the subject-matter of an application for a grant under the Act which has been deposited in the Registry must not be removed from the Registry or inspected without the order of the Registrar.

(2) No original will or other testamentary document in the custody of the Registrar may be inspected or copied except in the presence of a proper officer under the directions of the Registrar.

Memorandum of resealing and notice of resealing

251. The memorandum of resealing a grant of probate or administration and the form of notice of resealing the grant pursuant to the Act must be in Form 61 and Form 62, respectively.

Division 2 — Contentious probate proceedings

Definitions and application

252.—(1) In these Rules, "probate action" means an action for the grant of probate of the will, or letters of administration of the estate, of a deceased person or for the revocation of such a grant or for a decree pronouncing for or against the validity of an alleged will, not being an action which is non-contentious.

(2) In this Division, "will" includes a codicil.

(3) Subject to this Division, Parts 1, 2, 3, 4, 18 and 19 apply, with the necessary modifications, to probate causes and matters.

Requirements in connection with issue of writ

253.—(1) A probate action must be begun by writ, and the writ must be issued out of the Registry.

(2) Before a writ beginning a probate action is issued, it must be endorsed with a statement of the nature of the interest of the plaintiff and of the defendant in the deceased's estate to which the action relates.

(3) Where the Registry has issued a printed grant of probate of the will or letters of administration of the estate of a deceased person, a writ beginning an action for the revocation of that grant of probate or letters of administration, as the case may be, of the deceased person must not be issued unless —

(*a*) a citation under rule 258 has been issued; or

(*b*) the probate or letters of administration, as the case may be, has or have been lodged in the Registry.

Service of writ out of jurisdiction

254.—(1) Subject to paragraph (2), service out of the jurisdiction of a writ, by which a probate action is begun is permissible with the leave of the Court.

(2) Rule 312 applies in relation to an application for the grant of leave under this rule.

Intervener in probate action

255.—(1) A person not a party to a probate action may apply to the Court for leave to intervene in a probate action.

(2) An application under this rule must be made by summons supported by an affidavit showing the interest of the applicant in the deceased's estate.

(3) An applicant who obtains leave to intervene in a probate action shall not be entitled to be heard in the action unless he enters an appearance in the action.

(4) Where the Court grants leave under this rule, it may give such directions as to the service of pleadings, the filing of an affidavit of testamentary scripts or other matters as it thinks necessary.

Citation to see proceedings

256.—(1) On the application of the plaintiff, or of any other party who has pleaded in a probate action, a citation may be issued against any person not a party to the action who has an adverse interest to the applicant notifying him that if he does not enter an appearance judgment may be given in the action without further notice to him.

(2) Where a person who is served a citation under this rule fails to enter an appearance, the party on whose application the citation was issued shall not be entitled to be heard at the trial of the action without the leave of the Court unless he has filed an affidavit proving due service of the citation on that person.

Entry of appearance

257.—(1) The office for entry of appearance in a probate action is the Registry and Division 6 of Part 18, in its application to such an action, shall have effect accordingly.

(2) Without prejudice to paragraph (1), rules 319, 320 and 321 apply to the entry of appearance by a person authorised to intervene in a probate action, and by a person cited under rule 256, as if —

(*a*) that person were a defendant; and

(*b*) the parties to the action (in the case of an intervener) or the party at whose instance the citation was issued (in the case of a person cited) were the plaintiff.

Citation to bring in grant

258.—(1) In an action for the revocation of the grant of probate of the will, or letters of administration of the estate, of a deceased person, a citation against the person to whom the probate or letters of administration, as the case may be, was or were granted requiring him to bring into and leave at the Registry the probate or letters of administration, as the case may be, may be issued on the plaintiff's application.

(2) A citation may only be issued under paragraph (1) where the Registry has issued a printed grant of probate or letters of administration.

Citations

259.—(1) A citation under rule 256 or 258 must be issued out of the Registry and must be settled by the Court before it is issued.

(2) Before such a citation is issued, an affidavit verifying the statements of fact to be made in the citation must be sworn by the person applying for it to be issued.

(3) Despite paragraph (2), the Court may in special circumstances allow the affidavit to be sworn by that person's solicitor.

(4) Issue of a citation takes place upon its being sealed by an officer of the Registry.

(5) Without prejudice to rule 901, a citation under rule 256 or 258 must be served personally on the person cited.

(6) Service out of the jurisdiction of a citation under rule 256 or 258 is permissible but, in the case of a citation under rule 258, only with the leave of the Court.

(7) Rule 312 applies in relation to an application for the grant of leave under paragraph (6).

(8) An order granting leave to serve a citation under rule 258 out of the jurisdiction must limit a time within which the person to be served with the citation must comply.

(9) Rules 313, 314 and 315 apply in relation to a citation under rule 258 as they apply in relation to a writ.

Affidavit of testamentary scripts

260.—(1) Unless the Court otherwise directs, the plaintiff and every defendant who has entered an appearance in a probate action must swear an affidavit —

(*a*) describing and exhibiting any testamentary script of the deceased person, whose estate is the subject of the action, of which he has any knowledge or, if such be the case, stating that he knows of no such script; and

(*b*) if any such script of which he has knowledge is not in his possession or under his control —

(i) giving the name and address of the person in whose possession or under whose control it is; or

(ii) stating that he does not know the name or address of that person, as the case may be.

(2) Any script referred to in paragraph (1) which is in the possession or under the control of the deponent must be annexed to his affidavit, unless the Court otherwise directs.

(3) Any affidavit of testamentary scripts required by this rule must —

(*a*) be exchanged within 14 days after the entry of appearance by a defendant to the action; and

(*b*) unless the Court otherwise directs, be filed not less than 7 days before the hearing of the plaintiff's application to set down the action for trial.

(4) Where any testamentary script required by this rule to be exhibited or any part of the script is written in pencil, then, unless the Court otherwise directs —

(*a*) a facsimile copy of that script, or of the page or pages of that script containing the part written in pencil, must also be filed; and

(*b*) the words which appear in pencil in the original must be underlined in red ink in the copy.

(5) In this rule, "testamentary script" means a will or draft of the will, written instructions for a will made by or at the request or under the instructions of the testator and any document purporting to be evidence of the contents, or to be a copy, of a will which is alleged to have been lost or destroyed.

Default of appearance

261.—(1) Division 7 of Part 18 does not apply in relation to a probate action.

(2) Where any defendant to a probate action fails to enter an appearance, the plaintiff, upon filing an affidavit proving due service of the writ on that defendant may, after the time limited for appearing, proceed with the action as if that defendant had entered an appearance.

(3) Where the defendant, or all the defendants, to a probate action, fails or fail to enter an appearance, and none of the persons (if any) cited under rule 256 has entered an appearance, then, unless on the plaintiff's application the Court orders the action to be discontinued, the plaintiff may after the time limited for appearing by the defendant apply to the Court for leave to set down the action for trial.

(4) At the time of making an application for the grant of leave under paragraph (3), the plaintiff must —

(*a*) file an affidavit proving due service of the writ on the defendant and of the citation, if any; and

(*b*) file an affidavit of testamentary scripts under rule 260.

Service of statement of claim

262. The plaintiff in a probate action must, unless the Court gives leave to the contrary or a statement of claim is endorsed on the writ —

(*a*) serve a statement of claim on every defendant who enters an appearance in the action; and

(*b*) serve the statement of claim before the expiration of 6 weeks after entry of appearance by that defendant or of 8 days after the exchange of affidavits under rule 260, whichever is the later.

Counterclaim

263. Despite rule 349(1) and (2), a defendant to a probate action who alleges that he has any claim or is entitled to any relief or remedy in respect of any matter relating to the grant of probate of the will, or letters of administration of the estate, of the deceased person which is the subject of the action must add to his defence a counterclaim in respect of that matter.

Contents of pleadings

264.—(1) A plaintiff in a probate action who disputes the interest of a defendant must allege in his statement of claim that he denies the interest of that defendant.

(2) In a probate action in which the interest by virtue of which a party claims to be entitled to a grant of letters of administration is disputed, the party disputing that interest must show in his pleading that if the allegations made in the pleadings are proved he would be entitled to an interest in the estate.

(3) Without prejudice to rule 393, any party who pleads that at the time when a will, the subject of the action, was alleged to have been executed the testator did not know and approve of its contents must specify the nature of the case on which he intends to rely.

(4) No allegation in support of the plea referred to in paragraph (3) which would be relevant in support of any of the following other pleas shall be made by that party unless that other plea is also pleaded:

(*a*) that the will was not duly executed;

(*b*) that at the time of the execution of the will the testator was not of sound mind, memory and understanding;

(*c*) that the execution of the will was obtained by undue influence or fraud.

Default of pleadings

265.—(1) Division 13 of Part 18 does not apply in relation to a probate action.

(2) Where any party to a probate action fails to serve on any other party a pleading which he is required by these Rules to serve on that other party, then, unless the Court orders the action to be discontinued, that other party may, after the expiration of the period fixed under these Rules for service of the pleading in question, apply to the Court for leave to set down the action for trial.

No summary judgment

266. Division 8 of Part 18 does not apply in relation to a probate action.

Discontinuance

267.—(1) Division 15 of Part 18 does not apply in relation to a probate action.

(2) At any stage of the proceedings in a probate action the Court may, on the application of the plaintiff or of any party who has entered an appearance —

(*a*) order the action to be discontinued on such terms as to costs or otherwise as it thinks just; and

(*b*) further order that a grant of probate of the will, or letters of administration of the estate, of the deceased person, as the case may be, which is the subject of the action be made to the person entitled to the grant.

(3) An application for an order under this rule may be made by summons or by summons for directions under rule 486.

Compromise of action

268. Where whether before or after service of the defence in a probate action the parties to the action agree to a compromise, the action may, with the leave of the Court, be set down for trial.

Application to Court by summons

269. Except where these Rules otherwise provide, any application to the Court in a probate cause or matter may be made by summons.

Form of judgments and orders

270. Every judgment of the Court in a probate cause or matter must be signed by the Registrar.

Administration pending trial[2]

271.—(1) An application under section 20 of the Probate and Administration Act (Cap. 251) for the grant of administration may be made to the Registrar by originating summons.

(2) An administrator to whom a grant is made under section 20 of the Probate and Administration Act must at the time when he begins proceedings for taxation of his costs, or at such other time as the Registrar may direct, produce at the Registry an account (verified by affidavit) of the moneys and other property received or paid or otherwise dealt with by him in his capacity as such an administrator.

(3) Unless the Court otherwise directs, the account must be referred to the Registrar for examination and rules 873, 874 and 876 shall, with the necessary modifications, apply in relation to proceedings for the examination of the account as they apply in relation to proceedings for taxation of the administrator's costs.

(4) Except where the remuneration of the administrator has been fixed by a Judge, the Registrar must, on the completion of the examination of the administrator's account, and taxation of his costs, assess and provide for the administrator's remuneration.

PART 15

STATUS OF CHILDREN (ASSISTED REPRODUCTION TECHNOLOGY) ACT 2013

Definitions and application

272.—(1) In this Part, unless the context otherwise requires —

"Act" means the Status of Children (Assisted Reproduction Technology) Act 2013 (Act 16 of 2013), and any reference to a section is to be construed as a reference to a section in the Act;

"relevant child" means a child who is the subject of proceedings under the Act.

(2) Expressions used in this Part which are used in the Act have the same meanings in this Part as in the Act.

(3) Subject to this Part, Parts 1, 2, 3, 4 and 18 and Division 2 of Part 19 apply, with the necessary modifications, to proceedings under the Act.

Commencement of proceedings

273.—(1) Unless otherwise provided in the Act or these Rules, every application to the Court under section 10 or 15 for the determination or declaration of parenthood must be made by originating summons in Form 47.

(2) An application for leave of the Court referred to in section 10(2)(*d*) must be made by ex parte originating summons in Form 48.

Title of proceedings

274. Every originating summons to which this Part relates, and all affidavits, notices and other documents in those proceedings, must be entitled in the matter of the Act and in the matter of the relevant child.

Parties to proceedings

275.—(1) Unless the Court otherwise orders, the parties to any proceedings under section 10 or 15 for the determination or declaration of parenthood, other than an application for leave of the Court referred to in section 10(2)(*d*), are —

(*a*) the plaintiff or applicant; and

(*b*) every person referred to in paragraph (2) who is named as a defendant in the proceedings.

(2) For the purposes of paragraph (1)(*b*), the following persons (other than the plaintiff or applicant) must be named as defendants in the proceedings:

(*a*) any person who, at the time the application under section 10 or 15 is made, is treated or claiming to be treated as the parent of the relevant child;

(*b*) any person who, at the time the application under section 10 or 15 is made, is the de facto partner of the gestational mother of the relevant child;

(*c*) the relevant child.

(3) The Court may at any time order that a person be joined as a party to the proceedings, if the Court considers it is desirable to do so.

(4) The Court may at any time direct that any person who is a party to the proceedings be removed as a party, if the Court considers it is desirable to do so.

Supporting affidavit

276.—(1) An application under section 10 or 15 for the determination or declaration of parenthood must be supported by an affidavit which must —

(*a*) state the grounds of the application;

(*b*) include any information which may assist the Court in determining the application and, despite rule 646(1), the affidavit may contain statements

of information or belief with the sources and grounds of the information or belief;

(*c*) state whether the plaintiff or applicant has made a previous application under the Act in respect of the same relevant child, and if so, to provide particulars of that application including any order of Court made in that application;

(*d*) include a Statement in Form 63; and

(*e*) include any document for proving the matters stated in the affidavit.

(2) The supporting affidavit referred to in paragraph (1) must verify the information in the Statement referred to in paragraph (1)(*d*).

(3) An application for leave of the Court referred to in section 10(2)(*d*) must be supported by an affidavit which must —

(*a*) state the grounds of the application;

(*b*) include any information which may assist the Court in determining the application and, despite rule 646(1), the affidavit may contain statements of information or belief with the sources and grounds of the information or belief;

(*c*) state whether the applicant has made a previous application under the Act in respect of the same relevant child, and if so, to provide particulars of that application including any order of Court made in that application; and

(*d*) include any document for proving the matters stated in the affidavit.

(4) The plaintiff or applicant must file the supporting affidavit —

(*a*) in the case of an application under section 10 or 15 for the determination or declaration of parenthood, within 7 days after the date of filing of the application; and

(*b*) in the case of an application for leave of the Court referred to in section 10(2)(*d*), at the time of filing of the ex parte originating summons.

Service of application and affidavit

277.—(1) Where an application under the Act is made by originating summons in Form 47, the plaintiff or applicant must, within 14 days after the date on which the supporting affidavit is filed, serve the application together with the supporting affidavit on each person who is named as a defendant in the proceedings.

(2) The Court may order an ex parte originating summons in Form 48 and the supporting affidavit to be served on any person.

Objections and reply affidavits

278.—(1) A defendant who intends to object to or contest an application in an originating summons or to adduce evidence with reference to the originating summons must do so by affidavit.

(2) The affidavit referred to in paragraph (1) must be filed and a copy of the affidavit served on the plaintiff or applicant and on every other party to the proceedings not later than 21 days after being served with a copy of the plaintiff's or applicant's supporting affidavit.

(3) The plaintiff or applicant must, if he wishes to reply to a defendant's affidavit, file and serve his affidavit on the defendant and on every other party to the proceedings within 14 days after being served with a copy of the defendant's affidavit.

(4) No further affidavit shall be received in evidence without the leave of the Court.

Documents confidential

279. All documents filed in any application or proceedings shall be confidential and no inspection of the documents shall be given or copy of the documents supplied except as ordered by the Court.

Court may require attendance

280.—(1) The Court may require any party to any proceedings under the Act to attend at any hearing of those proceedings.

(2) Despite paragraph (1), the Court may refuse to make a determination or declaration of parenthood unless all parties including the relevant child attend before the Court, but the Court shall have power in its discretion —

(*a*) to dispense with the attendance of any party including the relevant child;

(*b*) to direct that any party including the relevant child attend before the Court separately and apart from the others; or

(*c*) to direct that any party including the relevant child be interviewed privately by the Court.

Where previous application refused

281. If the plaintiff or applicant has made a previous application under the Act for the determination or declaration of parenthood in respect of the same relevant child and that application has been refused, the Court must not make a determination or declaration of parenthood with respect to that relevant child unless the Court is satisfied that there has been a material change in the circumstances of the case.

Costs

282. The Court may make such orders as to costs as it thinks just.

Orders of Court

283. Where the Court makes a determination or declaration of parenthood of a relevant child, the order of Court must be in Form 64.

PART 16

SUPREME COURT OF JUDICATURE ACT — PROCEEDINGS UNDER SECTION 17A(2)(*C*) OF ACT

Definitions and application

284.—(1) This Part applies to proceedings for the disposition or division of property on divorce commenced in the Family Division of the High Court pursuant to section 17A(2)(*c*) of the Supreme Court of Judicature Act (Cap. 322), subject to the following rules of this Part.

(2) In this Part —

"Act" means the Supreme Court of Judicature Act;

"property" means matrimonial assets as defined in section 112(10) of the Women's Charter (Cap. 353);

"Syariah Court certificate of attendance" means a certificate of attendance issued by the Syariah Court under section 35A(7) of the Administration of Muslim Law Act (Cap. 3) in the form prescribed by the Muslim Marriage and Divorce Rules (Cap. 3, R 1);

"Syariah Court commencement certificate" means a commencement certificate issued by the Syariah Court under section 35A(4) of the Administration of Muslim Law Act in the form prescribed by the Muslim Marriage and Divorce Rules.

(3) Subject to this Part, Parts 1, 2, 3, 4, 18 and 19 apply, with the necessary

modifications, to the proceedings referred to paragraph (1).

Applications for disposition or division of property on divorce

285.—(1) An application for the disposition or division of property on divorce pursuant to section 17A(2)(*c*) must be made by originating summons and must be filed together with —

(*a*) a Syariah Court commencement certificate; or

(*b*) the parties' written consent to commencement of civil proceedings and the Syariah Court certificate of attendance.

(2) Rule 508 does not apply to an application under this rule.

(3) The plaintiff must file an affidavit setting out the full particulars of his property and the evidence in support of his application.

(4) The affidavit referred to in paragraph (3) must be filed and a copy of it served on the defendant not later than 7 days after the service of the originating summons.

(5) The defendant must file an affidavit setting out the full particulars of his property and the evidence that he wishes to adduce in respect of the application.

(6) The affidavit referred to in paragraph (5) must be filed and a copy of it served on the plaintiff not later than 2 months after being served with a copy of plaintiff's affidavit.

(7) No further affidavit shall be received in evidence without the leave of the Court.

Application of rule 46

286. Rule 46 applies, with the necessary modifications, to an application under this Part as if —

(*a*) the originating summons filed under this Part were an application for divorce under Part X of the Women's Charter (Cap. 353); and

(*b*) the plaintiff and defendant in the originating summons filed under this Part were the parties to the application under Part X of the Women's Charter.

PART 17

VOLUNTARY STERILIZATION ACT

Definitions and application

287.—(1) In this Part, unless the context otherwise requires —

"Act" means the Voluntary Sterilization Act (Cap. 347), and any reference to a section is to be construed as a reference to a section in the Act;

"relevant person" means a person who lacks capacity, within the meaning of section 4 of the Mental Capacity Act (Cap. 177A), to consent to undergoing any treatment for sexual sterilization.

(2) Expressions used in this Part which are used in the Act have the same meanings in this Part as in the Act.

(3) Subject to this Part, Parts 1, 2, 3, 4, 18 and 19 apply, with the necessary modifications, to proceedings under the Act.

Commencement of proceedings

288. Unless otherwise provided in these Rules, every application to the Court under section 3(2)(*d*) or (*e*) must be made by ex parte originating summons in Form 48.

Title of proceedings

289. Every originating summons to which this Part relates, and all affidavits, notices and other documents in those proceedings, must be entitled in the matter of the Act and in the matter of the relevant person.

Supporting affidavits

290.—(1) An application under section 3(2)(*d*) or (*e*) must be supported by an affidavit affirmed or sworn by the applicant.

(2) The affidavit must contain the following:

(*a*) if the application is made under section 3(2)(*d*), an authenticated copy of the marriage certificate or the entry in the register of marriages in respect of the applicant and the relevant person;

(*b*) if the application is made under section 3(2)(*e*) and the applicant is a parent of the relevant person, an authenticated copy of the birth certificate of the relevant person;

(*c*) if the application is made under section 3(2)(*e*) and the applicant is a guardian of the relevant person, such evidence to show that the applicant has been entrusted with the care and custody of the relevant person;

(*d*) a statement by the applicant that he has received, from the registered

medical practitioner who will be carrying out the treatment for sexual sterilization, a full and reasonable explanation as to the meaning and consequences of that treatment, and that the applicant clearly understands the meaning and consequences of that treatment;

(*e*) a report from the registered medical practitioner who will be carrying out the treatment for sexual sterilization stating that —

(i) the relevant person who is to undergo such treatment lacks capacity within the meaning of section 4 of the Mental Capacity Act (Cap. 177A) to consent to that treatment;

(ii) he has given the applicant a full and reasonable explanation as to the meaning and consequences of that treatment; and

(iii) such treatment is in his professional opinion necessary in the best interests of the relevant person.

Court may require attendance of relevant person

291. The Court may require the relevant person to attend at any hearing of an application under section 3(2)(*d*) or (*e*).

Court may require assessment or examination of relevant person

292.—(1) Despite the report from the registered medical practitioner referred to in rule 290(2)(*e*), the Court may require the relevant person —

(*a*) to be assessed by another registered medical practitioner as to whether the relevant person lacks capacity within the meaning of section 4 of the Mental Capacity Act (Cap. 177A); or

(*b*) to undergo a medical, psychiatric or psychological examination by another registered medical practitioner.

(2) Where the relevant person is assessed or examined by another registered medical practitioner, such registered medical practitioner must submit a report to the Court within such time as the Court may direct.

Objections

293.—(1) Where any person intends to object to an application under section 3(2)(*d*) or (*e*), he must apply for the leave of the Court to intervene in the application.

(2) An application for the grant of leave under this rule must be made by ex parte summons supported by an affidavit showing the relationship of the person applying for such leave to the relevant person and containing the grounds of objection.

Documents confidential

294. All documents filed in the application shall be confidential and no inspection of such documents shall be given or copy of such documents supplied except as ordered by the Court.

Costs

295. The Court may make such orders as to costs as it thinks just and may direct that all the costs of an originating summons under the Act shall be borne and paid by the applicant.

PART 18

GENERAL PROVISIONS RELATING TO FAMILY JUSTICE COURTS

Division 1 — Consolidation of proceedings

Consolidation, etc., of causes or matters

296.—(1) Where 2 or more causes or matters are pending, the Court may, in the circumstances referred to in paragraph (2), order —

(*a*) the causes or matters to be consolidated on such terms as it thinks just;

(*b*) the causes or matters to be tried at the same time or one immediately after another; or

(*c*) any of the causes or matters to be stayed until after the determination of any other of them.

(2) The Court may make an order under paragraph (1) if it appears to the Court that —

(*a*) some common question of law or fact arises in both or all of such causes or matters;

(*b*) the rights to relief claimed in such causes or matters are in respect of or

arise out of the same transaction or series of transactions; or

(*c*) for some other reason it is desirable to make an order under this rule.

(3) An order for consolidation —

(*a*) must be in Form 65; and

(*b*) must direct that —

(i) the cause or matter in which the application is made must from that time on be carried on in such other cause or matter; and

(ii) the title of such other cause or matter be amended by adding to that other cause or matter the title of the cause or matter in which the application is made.

(4) Upon such order being made —

(*a*) the file of the cause or matter in which the application is made must be transferred to and added to the file of such other cause or matter; and

(*b*) the copy of the order must be left in place of the file so transferred.

Division 2 — General provisions relating to writ of summons

Form of writ

297. Every writ must be in Form 66.

Endorsement on writ

298.—(1) Before a writ is issued, it must be endorsed —

(*a*) with a statement of claim or, if the statement of claim is not endorsed on the writ, with a concise statement of the nature of the claim made or the relief or remedy required in the action begun by the writ;

(*b*) where the claim made by the plaintiff is for a debt or liquidated demand only —

(i) with a statement of the amount claimed in respect of the debt or demand and for costs; and

(ii) with a statement that further proceedings will be stayed if,

within the time limited for appearing, the defendant pays the amount so claimed to the plaintiff or his solicitor;

(*c*) where the plaintiff sues in a representative capacity, with a statement of the capacity in which he sues;

(*d*) where a defendant is sued in a representative capacity, with a statement of the capacity in which he is sued;

(*e*) where the plaintiff sues by a solicitor, with the plaintiff's address and the solicitor's name or firm and a business address of the solicitor within the jurisdiction;

(*f*) where the plaintiff sues in person —

(i) with the address of his place of residence and, if his place of residence is not within the jurisdiction or if he has no place of residence, the address of a place within the jurisdiction at or to which documents for him may be delivered or sent; and

(ii) with his occupation; and

(*g*) with the number of days within which an appearance is required to be entered under rule 322.

(2) The address for service of a plaintiff shall be —

(*a*) where he sues by a solicitor, the business address of the solicitor endorsed on the writ; and

(*b*) where he sues in person, the address within the jurisdiction endorsed on the writ.

Issue of writ

299. The Registrar must assign a serial number to the writ and must sign, seal and date the writ whereupon the writ shall be deemed to be issued.

Duration and renewal of writ

300.—(1) Subject to the other provisions of these Rules, for the purposes of service, a writ is valid in the first instance —

(*a*) where leave to serve the writ out of the jurisdiction is required under Division 5 of this Part, for 12 months beginning with the date of its issue;

and

(*b*) in any other case, for 6 months beginning with the date of its issue.

(2) Subject to paragraph (4), where a writ has not been served on a defendant, the Court may by order extend the validity of the writ from time to time for such period, not exceeding 6 months at any one time, beginning with the day next following that on which it would otherwise expire, as may be specified in the order.

(3) An application for an order under paragraph (2) to extend the validity of the writ must be made to the Court before the day referred to in that paragraph, or such later day (if any), as the Court may allow.

(4) Where the Court is satisfied on an application under paragraph (3) that, despite the making of reasonable efforts, it may not be possible to serve a writ within 6 months, the Court may, if it thinks fit, extend the validity of the writ for such period, not exceeding 12 months at any one time, as the Court may specify.

(5) Before a writ, the validity of which has been extended under this rule, is served, it must be marked with an official stamp in Form 67 showing the period from which the validity of the writ has been so extended.

Division 3 — General provisions relating to originating summonses

Forms of originating summons

301. Every originating summons must be in Form 47 or 48, whichever is appropriate.

Contents of originating summons

302.—(1) Every originating summons must include —

(*a*) a statement of the questions on which the plaintiff seeks the determination or direction of the Court; or

(*b*) as the case may be, a concise statement of the relief or remedy claimed in the proceedings begun by the originating summons with sufficient particulars to identify the cause or causes of action in respect of which the plaintiff claims that relief or remedy.

(2) Rule 298, except for paragraph (1)(*a*), (*b*) and (*g*) of that rule, applies to an originating summons as it applies to a writ.

Issue of originating summons

303. Rule 299 applies to an originating summons as it applies to a writ.

Duration and renewal of originating summons

304. Rule 300 applies to an originating summons as it applies to a writ.

Ex parte originating summons

305.—(1) This Division, other than rules 301, 302(1) and 303 (so far as applicable), does not apply to ex parte originating summonses.

(2) Rule 299 applies, with the necessary modifications, to an ex parte originating summons as it applies to a writ.

Division 4 — General provisions relating to service of originating process

General provisions on service

306.—(1) Subject to the provisions of any written law and these Rules, a writ must be served personally on each defendant.

(2) Where a defendant's solicitor endorses on the writ a statement that he accepts service of the writ on that defendant's behalf, the writ shall be deemed to have been duly served on that defendant and to have been so served on the date on which the endorsement was made.

(3) Subject to rule 324, where a writ is not duly served on a defendant but he enters an appearance in the action begun by the writ, the writ shall be deemed to have been duly served on him and to have been so served on the date on which he entered the appearance.

(4) Where a writ is duly served on a defendant otherwise than by virtue of paragraph (3), subject to rule 313, the plaintiff in the action begun by the writ shall not, unless the Court otherwise orders, be entitled to enter final or interlocutory judgment against that defendant in default of appearance or in default of defence, unless within 8 days after service the plaintiff files a memorandum of service in Form 68 containing the following particulars:

(*a*) the day of the week, date and time on which the writ was served;

(*b*) where and how the writ was served;

(*c*) the person on whom the writ was served, and, where the person is not the defendant, the capacity in which he was served.

Service of writ on agent of overseas principal

307.—(1) Where the Court is satisfied on an ex parte application that —

(*a*) an action relates to any business or work against a person who does not reside within Singapore or who is absent from Singapore;

(*b*) an agent or manager has, at the time of service, personally the control or management of such business or work for such person within Singapore; and

(*c*) at the time of the application either the agent's or manager's authority has not been determined, or he is still in business relations with the principal,

the Court may authorise service of a writ of summons to be effected on such agent or manager instead of the principal.

(2) For the purpose of this rule, "business or work" includes the administration of an estate.

(3) Every application under this rule must be supported by an affidavit stating the nature of the claim.

(4) An order under this rule authorising service of a writ on a defendant's agent or manager must allow the defendant 21 days, or such extended time as the Court sees fit, to enter appearance.

(5) Where an order is made under this rule authorising service of a writ on a defendant's agent or manager, a copy of the order and of the writ must be sent by prepaid registered post to the defendant at his address out of the jurisdiction if known to the plaintiff.

Service of writ pursuant to contract

308.—(1) Where —

(*a*) a contract contains a term to the effect that the Court shall have jurisdiction to hear and determine any action in respect of a contract or, apart from any such term, the Court has jurisdiction to hear and determine any such action; and

(*b*) the contract provides that, in the event of any action in respect of the

contract being begun, the process by which it is begun may be served on the defendant, or on such other person on his behalf as may be specified in the contract, in such manner or at such place (whether within or out of the jurisdiction), as may be so specified,

then if an action in respect of the contract is begun in the Court and the writ by which it is begun is served in accordance with the contract, the writ shall, subject to paragraph (2), be deemed to have been duly served on the defendant.

(2) A writ which is served out of the jurisdiction in accordance with a contract shall not be deemed to have been duly served on the defendant by virtue of paragraph (1) unless leave to serve the writ out of the jurisdiction has been granted under Division 5 of this Part.

Service of writ in certain actions for possession of immovable property

309. Where a writ is endorsed with a claim for the possession of immovable property, the Court may —

(*a*) if satisfied on an ex parte application that no person appears to be in possession of the immovable property and that service cannot be otherwise effected on any defendant, authorise service on that defendant to be effected by affixing a copy of the writ to some conspicuous part of the immovable property; or

(*b*) if satisfied on such an application that no person appears to be in possession of the immovable property and that service could not otherwise have been effected on any defendant, order that service already effected by affixing a copy of the writ to some conspicuous part of the immovable property is to be treated as good service on that defendant.

Service of originating summons

310. Rules 306 to 309 (except rule 306(3) and (4)) apply in relation to an originating summons as they apply in relation to a writ.

Division 5 — Service process out of Singapore

Cases in which service out of Singapore is permissible

311. Service of an originating process out of Singapore is permissible with the leave of the Court if in the action —

(*a*) relief is sought against a person who is domiciled, ordinarily resident, carrying on business or who has property in Singapore;

(*b*) an injunction is sought ordering the defendant to do or refrain from doing anything in Singapore (whether or not damages are also claimed in respect of a failure to do or the doing of that thing);

(*c*) the claim is brought against a person duly served in or out of Singapore and a person out of Singapore is a necessary or proper party to the claim;

(*d*) the claim is brought to enforce, rescind, dissolve, annul or otherwise affect a contract, or to recover damages or obtain other relief in respect of the breach of a contract, being (in either case) a contract which —

(i) was made in Singapore, or was made as a result of an essential step being taken in Singapore;

(ii) was made by or through an agent trading or residing in Singapore on behalf of a principal trading or residing out of Singapore;

(iii) is by its terms, or by implication, governed by the law of Singapore; or

(iv) contains a term to the effect that that Court shall have jurisdiction to hear and determine any action in respect of the contract;

(*e*) the claim is brought in respect of a breach committed in Singapore of a contract made in or out of Singapore and irrespective of the fact, if such be the case, that the breach was preceded or accompanied by a breach committed out of Singapore that rendered impossible the performance of so much of the contract as ought to have been performed in Singapore;

(*f*) the claim is —

(i) founded on a tort, wherever committed, which is constituted, at least in part, by an act or omission occurring in Singapore; or

(ii) wholly or partly founded on, or is for the recovery of damages in respect of, damage suffered in Singapore caused by a tortuous act or omission wherever occurring;

(*g*) the whole subject-matter is immovable property situate in Singapore (with or without rents or profits) or the perpetuation of testimony relating to

immovable property so situate;

(*h*) the claim is brought to construe, rectify, set aside or enforce an act, deed, will, contract, obligation or liability affecting immovable property situate in Singapore;

(*i*) the claim is made for a debt secured on immovable property or is made to assert, declare or determine proprietary or possessory rights, or rights of security, in or over movable property, or to obtain authority to dispose of movable property, situate in Singapore;

(*j*) the claim is brought to execute the trusts of a written instrument, being trusts that ought to be executed according to the law of Singapore and of which the person to be served with the originating process is a trustee, or for any relief or remedy which might be obtained in any such action;

(*k*) the claim is made for the administration of the estate of a person who died domiciled in Singapore or for any relief or remedy which might be obtained in any such action;

(*l*) the claim is brought in a probate action within the meaning of Division 2 of Part 14;

(*m*) the claim is a restitutionary claim (including a claim for quantum meruit or quantum valebat) or for an account or other relief against the defendant as a trustee or fiduciary, and the defendant's alleged liability arises out of any act done, whether by him or otherwise, in Singapore;

(*n*) the claim is founded on a cause of action arising in Singapore;

(*o*) the claim is for a contribution or an indemnity in respect of a liability enforceable by proceedings in Singapore;

(*p*) the claim is in respect of matters in which the defendant has submitted or agreed to submit to the jurisdiction of the Court; or

(*q*) the claim concerns the construction, effect or enforcement of any written law.

Manner of application

312.—(1) An application for the grant of leave under rule 311 must be made by ex parte summons supported by an affidavit in Form 69 stating —

(*a*) the grounds on which the application is made;

(*b*) that in the deponent's belief the plaintiff has a good cause of action;

(*c*) the place or country the defendant is, or probably may be found, in;

(*d*) where the application is made under rule 311(*c*), the grounds for the deponent's belief that there is between the plaintiff and the person on whom an originating process has been served a real issue which the plaintiff may reasonably ask the Court to try; and

(*e*) whether it is necessary to extend the validity of the writ.

(2) The Court must not grant leave unless it is made sufficiently to appear to the Court that the case is a proper one for service out of Singapore under this Division.

(3) An order granting leave under rule 311 —

(*a*) must be in Form 70; and

(*b*) must allow the defendant 21 days to enter an appearance unless the Court otherwise orders or any written law provides.

Service of originating process abroad: Alternative modes

313.—(1) Subject to paragraphs (2) to (8), rules 306 and 901 apply to the service of an originating process out of Singapore.

(2) Nothing in this rule or in any order or direction of the Court made by virtue of it shall authorise or require the doing of anything in a country in which service is to be effected which is contrary to the law of that country.

(3) An originating process which is to be served out of Singapore need not be served personally on the person required to be served so long as it is served on him in accordance with the law of the country in which service is effected.

(4) Where a certificate under this rule is produced in relation to the service of an originating process in accordance with rule 314 or 316, rule 306(4) does not apply in relation to that service.

(5) An official certificate stating that an originating process as regards which rule 314 has been complied with has been served on a person personally, or in accordance with the law of the country in which service was effected, on a specified date, being a certificate —

(*a*) by a Singapore consular authority in that country;

(*b*) by the government or judicial authorities of that country; or

(*c*) by any other authority designated in respect of that country, under the Hague Convention,

shall be evidence of the facts so stated.

(6) A document purporting to be such a certificate as is mentioned in paragraph (4) or (5) shall, until the contrary is proved, be deemed to be such a certificate.

(7) Where the defendant is in Malaysia or Brunei Darussalam, the originating process —

(*a*) may be served in accordance with rule 314; or

(*b*) may be sent by post or otherwise by the Registrar to the Magistrate, Registrar or other appropriate officer of any court exercising civil jurisdiction in the area in which the person to be served is said to be or to be carrying on business for service on the defendant.

(8) An originating process which has been served according to paragraph (7)(*b*) and which is returned with an endorsement of service and with an affidavit of such service shall be deemed to have been duly served.

Service of originating process abroad through foreign governments, judicial authorities and Singapore consuls or by other method of service

314.—(1) Where in accordance with these Rules an originating process is to be served on a defendant in any country with respect to which there subsists a Civil Procedure Convention providing for service in that country of process of the High Court, the originating process may be served —

(*a*) through the judicial authorities of that country; or

(*b*) through a Singapore consular authority in that country (subject to any provision of the convention as to the nationality of persons who may be so served).

(2) Where in accordance with these Rules an originating process is to be served on a defendant in any country with respect to which there does not subsist a Civil Procedure Convention providing for service in that country of process of the High Court, the originating process may be served —

(*a*) through the government of that country, where that government is willing to effect service;

(*b*) through a Singapore consular authority in that country, except where service through such an authority is contrary to the law of that country; or

(*c*) by a method of service authorised by the law of that country for service of

any originating process issued by that country.

(3) A person who wishes to serve an originating process in any country by any of the following methods must file in the Registry a request in Form 71 for service of the originating process by that method, together with a copy of the originating process and an additional sealed copy of the originating process for each person to be served:

(*a*) through the judicial authorities of that country under paragraph (1);

(*b*) through a Singapore consular authority under paragraph (1) or (2);

(*c*) through the government of that country under paragraph (2).

(4) Every copy of an originating process served pursuant to paragraph (2)(*c*) or filed under paragraph (3) must be accompanied by a translation of the originating process —

(*a*) in the official language of the country in which service is to be effected; or

(*b*) if there is more than one official language of that country, in any of those languages which is appropriate to the place in that country where service is to be effected.

(5) Paragraph (4) does not apply to a copy of an originating process which is to be served —

(*a*) in a country where the official language is, or its official languages include, English; or

(*b*) in any country by a Singapore consular authority on a Singapore citizen,

unless the service is to be effected under paragraph (1) and the Civil Procedure Convention with respect to that country expressly requires the copy to be accompanied by a translation.

(6) Every translation served or filed under paragraph (4) 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.

(7) Documents duly filed under paragraph (3) must be sent by the Registrar to the Permanent Secretary to the Ministry of Foreign Affairs with a request that the Permanent Secretary arrange for the originating process to be served by —

(*a*) the method indicated in the request filed under paragraph (3); or

(*b*) where alternative methods are so indicated, any of those methods as is most convenient.

Undertaking to pay expenses of service incurred by Minister

315. Every request filed under rule 314(3) must contain an undertaking by the person making the request to be responsible personally for all expenses incurred by the Minister in respect of the service requested and, on receiving due notification of the amount of those expenses, to pay that amount to the office of the Minister and to produce a receipt for the payment to the proper officer in the Registry.

Service of process on foreign State

316.—(1) Subject to paragraph (2), where a person to whom leave has been granted under rule 312 to serve an originating process on a State, as defined in section 16 of the State Immunity Act (Cap. 313), wishes to have the originating process served on that State, he must file in the Registry —

(*a*) a request for service to be arranged by the Permanent Secretary to the Ministry of Foreign Affairs;

(*b*) a sealed copy of the originating process; and

(*c*) except where the official language of the State is, or the official languages of that State include, English, a translation of the originating process in the official language or one of the official languages of the State.

(2) Rule 314(6) applies in relation to a translation filed under paragraph (1) as it applies in relation to a translation filed under rule 314(4).

(3) Documents duly filed under this rule must be sent by the Registrar to the Permanent Secretary to the Ministry of Foreign Affairs with a request that the Permanent Secretary arrange for the originating process to be served on the State or the government in question, as the case may be.

(4) Where section 14(6) of the State Immunity Act applies and the State has agreed to a method of service other than that provided by this rule, the originating process may be served either by the method agreed or in accordance with this rule.

Service of summons, notice or order out of Singapore

317.—(1) Service out of Singapore of any summons, notice or order issued, given or made in any proceedings is permissible only with the leave of the Court.

(2) Despite paragraph (1), leave of the Court is not required in any proceedings in which leave for service of the originating process has already been granted.

(3) Rule 312, so far as applicable, applies in relation to an application for the grant of

leave under this rule.

(4) Rules 313, 314 and 315 apply in relation to any document for the service out of Singapore of which leave has been granted under this rule as they apply in relation to an originating process.

Service abroad of Family Justice Courts documents

318.—(1) An originating process issued in the Family Justice Courts which is to be served out of Singapore in any jurisdiction (other than Malaysia or Brunei Darussalam) —

(*a*) must be sent by the Registrar of the Family Justice Courts to the Registrar of the Supreme Court; and

(*b*) must be served in accordance with these Rules relating to the service out of Singapore of an originating process issued in the Supreme Court.

(2) Every certificate of service received by the Registrar of the Supreme Court in respect of such service must be transmitted by him to the Registrar of the Family Justice Courts.

Division 6 — Entry of appearance

Mode of entering appearance

319.—(1) Subject to paragraphs (2) and (3) and rule 656, a defendant to an action begun by writ may (whether or not he is sued as a trustee or personal representative or in any other representative capacity) enter an appearance in the action and defend it by a solicitor or in person.

(2) Subject to rule 9(2) and any other written law, and except in accordance with any practice directions, a defendant to an action begun by writ which is a body corporate may not enter an appearance in the action or defend it otherwise than by a solicitor.

(3) Subject to rule 9(3) and any other written law, and except in accordance with any practice directions, a defendant to an action begun by writ which is an unincorporated association (other than a partnership) may not enter an appearance in the action or defend it otherwise than by a solicitor.

(4) A defendant who wishes to enter an appearance must file a memorandum of appearance and a copy of the memorandum of appearance in accordance with rule 320.

(5) If 2 or more defendants to an action enter an appearance by the same solicitor and

at the same time, only one memorandum of appearance needs to be completed and delivered for those defendants.

Memorandum of appearance

320.—(1) A memorandum of appearance is a request to the Registry to enter an appearance for the defendant or defendants specified in the memorandum.

(2) A memorandum of appearance must be in Form 72 and both the memorandum of appearance and the copy of the memorandum of appearance must be signed by the defendant's solicitor or, if the defendant appears in person, by the defendant.

(3) A memorandum of appearance must specify —

(*a*) in the case of a defendant appearing in person —

(i) the address of his place of residence; and

(ii) if his place of residence is not within the jurisdiction or if he has no place of residence, the address of a place within the jurisdiction at or to which documents for him may be delivered or sent; and

(*b*) in the case of a defendant appearing by a solicitor —

(i) a business address of his solicitor within the jurisdiction; and

(ii) where the defendant enters an appearance in person, the address within the jurisdiction specified under sub-paragraph (*a*) shall be his address for service, but otherwise his solicitor's business address shall be his address for service.

(4) If the memorandum of appearance does not specify the defendant's address for service or the Court is satisfied that any address specified in the memorandum of appearance is not genuine, the Court may —

(*a*) on application by the plaintiff, set aside the appearance or order the defendant to give an address or, as the case may be, a genuine address for service; and

(*b*) in any case direct that the appearance shall nevertheless have effect for the purposes of rules 306(3) and 907.

Procedure on receipt of memorandum of appearance

321.—(1) On receiving the memorandum of appearance and the copy of the memorandum of appearance, an officer of the Registry must affix to the copy of the memorandum of appearance an official stamp showing the date on which he received those documents, and that copy must be returned to the defendant.

(2) The defendant must, as soon as practicable after entering an appearance, send by post to the plaintiff (if the plaintiff sues in person) or to the plaintiff's solicitor, at the plaintiff's address for service, the copy of the memorandum of appearance with the official stamp affixed.

Time limited for appearing

322. References in these Rules to the time limited for appearing are references —

(*a*) in the case of a writ served within the jurisdiction, to 8 days after service of the writ or, where that time has been extended by or by virtue of these Rules, to that time as so extended; and

(*b*) in the case of a writ served out of the jurisdiction, to 21 days after service of the writ as provided for in rule 307 or 312, or to such extended time as the Court may otherwise allow.

Late appearance

323.—(1) A defendant may not enter an appearance in an action after judgment has been entered in that action except with the leave of the Court.

(2) Except as provided by paragraph (1), nothing in these Rules or any writ or order thereunder is to be construed as precluding a defendant from entering an appearance in an action after the time limited for appearing.

(3) Despite paragraph (2), if a defendant enters an appearance after the time limited for appearing, he shall not, unless the Court otherwise orders, be entitled to serve a defence or do any other thing later than if he had appeared within that time.

Appearance not to constitute waiver

324. The appearance by a defendant in an action is not to be treated —

(*a*) as a waiver by him of any irregularity in the writ or service of the writ or in any order giving leave to serve the writ out of the jurisdiction; or

(*b*) as extending the validity of the writ for the purpose of service.

Dispute as to jurisdiction, etc.

325.—(1) A defendant who wishes to dispute the jurisdiction of the Court in the proceedings by reason of any such irregularity referred to in rule 324 or on any other ground must enter an appearance and within the time limited for serving a defence apply to the Court for —

(*a*) an order setting aside the writ or service of the writ on him;

(*b*) an order declaring that the writ has not been duly served on him;

(*c*) the discharge of any order giving leave to serve the writ on him out of the jurisdiction;

(*d*) the discharge of any order extending the validity of the writ for the purpose of service;

(*e*) the protection or release of any property of the defendant seized or threatened with seizure in the proceedings;

(*f*) the discharge of any order made to prevent any dealing with any property of the defendant;

(*g*) a declaration that in the circumstances of the case the Court has no jurisdiction over the defendant in respect of the subject-matter of the claim or the relief or remedy sought in the action; or

(*h*) such other relief as may be appropriate.

(2) A defendant who wishes to contend that the Court should not assume jurisdiction over the action on the ground that Singapore is not the proper forum for the dispute must —

(*a*) enter an appearance; and

(*b*) within the time limited for serving a defence, or such other longer period as the Court may allow, apply to the Court for an order staying the proceedings.

(3) An application under paragraph (1) or (2) must be made by summons supported by an affidavit verifying the facts on which the application is based and a copy of the affidavit must be served with the summons.

(4) On hearing an application under paragraph (1) or (2), the Court may make such order as it thinks fit and may give such directions for its disposal as may be appropriate, including directions for the trial thereof as a preliminary issue.

(5) A defendant who makes an application under paragraph (1) shall not be treated as having submitted to the jurisdiction of the Court by reason of his having entered an

appearance and if the Court makes no order on the application or dismisses it, paragraph (6) applies as if the defendant had not made any such application.

(6) Except where the defendant makes an application in accordance with paragraph (1), the appearance by a defendant shall, unless the appearance is withdrawn by leave of the Court under rule 429, be treated as a submission by the defendant to the jurisdiction of the Court in the proceedings.

Application by defendant where writ not served

326.—(1) Where a person is named as a defendant in a writ and the writ has not been served on him, that person may serve a notice on the plaintiff requiring the plaintiff, within a specified period that is not less than 14 days after service of the notice, to —

(*a*) serve the writ on that person; or

(*b*) discontinue the action against that person.

(2) Where the plaintiff fails to comply with a notice under paragraph (1) within the time specified, the Court may, on the defendant's application by summons, order the action to be dismissed or make such other order as it thinks fit.

(3) A summons under paragraph (2) must be supported by an affidavit verifying the facts on which the application is based and stating that the defendant intends to contest the proceedings, and a copy of the affidavit must be served with the summons.

(4) Where the plaintiff serves the writ in compliance with a notice under paragraph (1) or with an order under paragraph (2), the defendant must enter an appearance within the time limited for so doing.

No appearance to originating summons

327. No appearance needs to be entered to an originating summons.

Division 7 — Default of appearance to writ

Claim for liquidated demand

328.—(1) Where a writ is endorsed with a claim against a defendant for a liquidated demand only and that defendant fails to enter an appearance, the plaintiff may, after the time limited for appearing —

(*a*) enter final judgment against that defendant for a sum not exceeding that claimed by the writ in respect of the demand and for costs; and

(*b*) proceed with the action against the other defendants, if any.

(2) A claim shall not be prevented from being treated for the purposes of this rule as a claim for a liquidated demand by reason only that part of the claim is for interest accruing after the date of the writ at an unspecified rate.

(3) For the purposes of paragraph (2), any such interest shall be computed from the date of the writ to the date of entering judgment at the rate of 6% per annum or at such other rate as the Chief Justice may from time to time direct.

Claim for unliquidated damages

329. Where a writ is endorsed with a claim against a defendant for unliquidated damages only, and that defendant fails to enter an appearance, the plaintiff may, after the time limited for appearing —

(*a*) enter interlocutory judgment against that defendant for damages to be assessed and costs; and

(*b*) proceed with the action against the other defendants, if any.

Claim for possession of immovable property

330.—(1) Where a writ is endorsed with a claim against a defendant for possession of immovable property only, and that defendant fails to enter an appearance, the plaintiff may, after the time limited for appearing, and on producing a certificate by his solicitor, or (if he sues in person) an affidavit, stating that he is not claiming any relief in the action of the nature specified in Order 83, Rule 1 of the Rules of Court (Cap. 322, R 5) —

(*a*) enter judgment for possession of the immovable property as against that defendant and costs; and

(*b*) proceed with the action against the other defendants, if any.

(2) Where there is more than one defendant, judgment entered under this rule shall not be enforced against any defendant until judgment for possession of the immovable property has been entered against all the defendants.

Mixed claims

331. Where a writ issued against any defendant is endorsed with 2 or more of the claims referred to in rules 328, 329 and 330, and no other claim, and that defendant fails to enter an appearance, the plaintiff may, after the time limited for appearing —

(*a*) enter against that defendant such judgment in respect of any such claim as he would be entitled to enter under these Rules if that were the only claim endorsed on the writ; and

(*b*) proceed with the action against the other defendants, if any.

Other claims

332.—(1) Where a writ is endorsed with a claim of a description not mentioned in rules 328, 329 and 330, and any defendant fails to enter an appearance, the plaintiff may proceed with the action as if that defendant had entered an appearance —

(*a*) after the time limited for appearing;

(*b*) upon filing an affidavit proving due service of the writ on that defendant; and

(*c*) where the statement of claim was not endorsed on or served with the writ, upon serving a statement of claim on that defendant.

(2) Where a defendant fails to enter an appearance, the plaintiff may, after the time limited for appearing by that defendant, enter judgment with the leave of the Court against that defendant for costs, where —

(*a*) a writ issued against that defendant is endorsed as in paragraph (1); and

(*b*) that defendant has satisfied the claim or complied with the demands in the claim, or for any other like reason it has become unnecessary for the plaintiff to proceed with the action against that defendant.

(3) An application for leave to enter judgment under paragraph (2) must be —

(*a*) made by summons; and

(*b*) unless the Court otherwise orders, and despite anything in rule 907, served on the defendant against whom it is sought to enter judgment.

Entry of judgment

333.—(1) A plaintiff must not enter judgment against a defendant under this Division unless a request to enter judgment in Form 73 is filed with the judgment in Form 74.

(2) Where, in an action begun by writ, a request to enter judgment is filed or an application is made to the Court for an order affecting a party who has failed to enter an appearance, the Court may require to be satisfied in such manner as it thinks fit that the party is in default of appearance.

Setting aside judgment

334. The Court may, on such terms as it thinks just, set aside or vary any judgment entered pursuant to this Division.

Division 8 — Summary judgment and disposal of case on point of law

Application by plaintiff for summary judgment

335. Where a plaintiff has served a statement of claim on a defendant and the defendant has served a defence, the plaintiff may apply to the Court for judgment against that defendant on any of the following grounds:

(*a*) that the defendant has no defence to a claim included in the writ, or to a particular part of the claim;

(*b*) that the defendant has no defence to such a claim or part of the claim except as to the amount of any damages claimed.

Manner in which application under rule 335 must be made

336.—(1) An application under rule 335 must be made by summons supported by an affidavit or affidavits.

(2) The summons and the supporting affidavit or affidavits must be —

(*a*) filed at the same time; and

(*b*) served on the defendant within 3 days after the date of filing.

(3) The defendant on whom the summons and the supporting affidavit or affidavits have been served may show cause against the plaintiff's application by affidavit or otherwise to the satisfaction of the Court.

(4) If the defendant wishes to show cause against the plaintiff's application by affidavit, he must file and serve his affidavit or affidavits on the plaintiff within 14 days after service of the plaintiff's summons and affidavit or affidavits.

(5) The plaintiff must, if he wishes to reply to the defendant's affidavit or affidavits, file and serve his affidavit or affidavits on the defendant within 14 days after service of the defendant's affidavit or affidavits.

(6) No further affidavit shall be received in evidence without the leave of the Court.

(7) Where a party files or serves an affidavit beyond the period of time specified in this rule, the Court may make such order as to costs against that party as it considers fit.

(8) An affidavit or affidavits for the purpose of this rule —

(*a*) must contain all necessary evidence in support of or in opposition to the claim (as the case may be), or a part of the claim, to which the application relates; and

(*b*) unless the Court otherwise directs, may contain statements of information or belief with the sources and grounds thereof.

Judgment for plaintiff

337.—(1) On the hearing of an application under rule 335, the Court may give such judgment for the plaintiff against the defendant on the plaintiff's claim or part of the claim as may be just having regard to the nature of the remedy or relief claimed, unless —

(*a*) the Court dismisses the application; or

(*b*) the defendant satisfies the Court with respect to the claim or part of the claim to which the application relates, that there is an issue or question in dispute which should be tried or that there should for some other reason be a trial of that claim or part of that claim.

(2) The Court may by order, and subject to such conditions, if any, as may be just, stay execution of any judgment given against a defendant under this rule until after the trial of any counterclaim made or raised by the defendant in the action.

Leave to defend

338.—(1) The Court may give a defendant, against whom an application under rule 335 is made, leave to defend the action with respect to the claim, or part of the claim, to which the application relates —

(*a*) unconditionally; or

(*b*) on such terms as to giving security, time, mode of trial or otherwise as it thinks fit.

(2) The Court hearing the application may order a defendant showing cause or, where that defendant is a body corporate, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity —

(*a*) to produce any document; and

(*b*) if it appears to the Court that there are special circumstances which make it desirable that he should do so, to attend and be examined on oath.

Application for summary judgment on counterclaim

339.—(1) Where a defendant to an action begun by writ has served a counterclaim on the plaintiff and the plaintiff has served a defence to the counterclaim, the defendant may, on the ground that the plaintiff has no defence to a claim made in the counterclaim, or to a particular part of such a claim, apply to the Court for judgment against the plaintiff on that claim or part of that claim.

(2) Rules 336, 337 and 338 apply in relation to an application under this rule as they apply in relation to an application under rule 335 but with the following modifications:

(*a*) references to the plaintiff and defendant are to be construed as references to the defendant and plaintiff respectively;

(*b*) the words "any counterclaim made or raised by the defendant in" in rule 337(2) are to be omitted;

(*c*) the reference in rule 338(1) to the action is to be construed as a reference to the counterclaim to which the application under this rule relates.

Directions

340.—(1) The Court must give directions as to the further conduct of an action where —

(*a*) it orders that a defendant or a plaintiff has leave (whether conditional or unconditional) to defend the action or counterclaim, as the case may be, with respect to a claim or part of a claim;

(*b*) it gives judgment for a plaintiff or a defendant on a claim or part of a claim but also orders that execution of the judgment be stayed pending the trial of a counterclaim or of the action, as the case may be; or

(*c*) it dismisses, or grants leave for the withdrawal of, the application under this Division.

(2) Where the Court gives directions as to the further conduct of an action under paragraph (1), rules 481 to 486 will, with the omission of so much of rule 486(1) as requires parties to serve a notice specifying the orders and directions which they require and with any other necessary modifications, apply as if the application under rule 335 or 339, as the case may be, on which the order was made were a summons for directions.

(3) In particular, and if the parties consent, the Court may direct that the claim in question and any other claim in the action be tried by the Registrar under the provisions of these Rules relating to the trial of causes or matters or questions or issues by the Registrar.

Costs

341.—(1) The Court may dismiss an application under rule 335 if it appears to the Court that the plaintiff knew that the defendant relied on a contention which would entitle him to unconditional leave to defend.

(2) The Court has the same power to dismiss an application under rule 339 as it has under paragraph (1) to dismiss an application under rule 335, and that paragraph applies accordingly with the necessary modifications.

(3) The Court may make such order as to costs against the plaintiff as it considers fit where the Court —

(*a*) dismisses an application under rule 335; or

(*b*) gives a defendant against whom such an application is made unconditional leave to defend the action with respect to the claim or any part of the claim to which the application relates.

Right to proceed with residue of action or counterclaim

342.—(1) Where on an application under rule 335 the plaintiff obtains judgment on a claim or part of a claim against any defendant, the plaintiff may proceed with the action —

(*a*) as respects any other claim or the remainder of the claim; or

(*b*) against any other defendant.

(2) Where on an application under rule 339 a defendant obtains judgment on a claim or part of a claim made in a counterclaim against the plaintiff, the defendant may proceed with the counterclaim —

(*a*) as respects any other claim or the remainder of the claim; or

(*b*) against any other defendant to the counterclaim.

Judgment for delivery up of movable property

343. Where the claim is for the delivery up of a specific movable property and the Court gives judgment under this Division for the applicant, it shall have the same power

to order the party against whom judgment is given to deliver up the property without giving him an option to retain it on paying the assessed value of the property as if the judgment had been given after trial.

Setting aside judgment

344. Any judgment given against a party who does not appear at the hearing of an application under rule 335 or 339 may be set aside or varied by the Court on such terms as it thinks just.

Determination of questions of law or construction of documents

345.—(1) The Court may, upon the application of a party or of its own motion, determine any question of law or construction of any document arising in any cause or matter where it appears to the Court that —

(*a*) such question is suitable for determination without a full trial of the action; and

(*b*) such determination will fully determine (subject only to any possible appeal) the entire cause or matter or any claim or issue in the cause or matter.

(2) Upon such determination, the Court may dismiss the cause or matter or make such order or judgment as it thinks just.

(3) The Court must not determine any question under this Division unless the parties have had an opportunity of being heard on the question.

(4) Nothing in this Division shall limit the powers of the Court under rule 405 or any other provision of these Rules.

Manner in which application under rule 345 may be made

346. An application under rule 345 may be made by summons or (despite rule 546) may be made orally in the course of any interlocutory application to the Court.

Time limit for summary judgment applications

347. Unless the Court otherwise orders, no summons under this Division may be filed more than 28 days after the pleadings in the action are deemed to be closed.

Division 9 — Causes of action: Counterclaims and parties

Joinder of causes of action

348.—(1) Subject to rule 352(1), a plaintiff may in one action claim relief against the same defendant in respect of more than one cause of action —

(*a*) if the plaintiff claims, and the defendant is alleged to be liable, in the same capacity in respect of all the causes of action;

(*b*) if the plaintiff claims or the defendant is alleged to be liable in the capacity of executor or administrator of an estate in respect of one or more of the causes of action and in his personal capacity but with reference to the same estate in respect of all the others; or

(*c*) with the leave of the Court.

(2) An application for leave under this rule must be made by ex parte summons supported by an affidavit before the issue of the writ or originating summons, as the case may be, and the affidavit must state the grounds of the application.

Counterclaim against plaintiff

349.—(1) Subject to rule 352(2), a defendant in any action who alleges that he has any claim or is entitled to any relief or remedy against a plaintiff in the action in respect of any matter may, instead of bringing a separate action, make a counterclaim in respect of that matter.

(2) Where a defendant makes a counterclaim under paragraph (1), he must add the counterclaim to his defence.

(3) Rule 348 applies in relation to a counterclaim as if the counterclaim were a separate action and as if the person making the counterclaim were the plaintiff and the person against whom it is made a defendant.

(4) A counterclaim may be proceeded with even if judgment is given for the plaintiff in the action or the action is stayed, discontinued or dismissed.

(5) Where a defendant establishes a counterclaim against the plaintiff's claim and there is a balance in favour of one of the parties, the Court may —

(*a*) give judgment for the balance; and

(*b*) make such order as to costs as it considers fit.

Counterclaim against additional parties

350.—(1) A defendant to an action who makes a counterclaim against the plaintiff

may, subject to rule 352(2), join any other person as a party against whom the counterclaim is made, where the defendant —

(*a*) alleges that such other person (whether or not a party to the action) is liable to the defendant along with the plaintiff in respect of the subject-matter of the counterclaim; or

(*b*) claims against such other person any relief relating to or connected with the original subject-matter of the action.

(2) Where a defendant joins a person as a party against whom he makes a counterclaim, he must add that person's name to the title of the action and serve on that person a copy of the counterclaim.

(3) A person on whom a copy of a counterclaim is served under paragraph (2) shall, if he is not already a party to the action, become a party to it as from the time of service with the same rights in respect of his defence to the counterclaim and otherwise as if he had been duly sued in the ordinary way by the party making the counterclaim.

(4) A defendant who is required by paragraph (2) to serve a copy of the counterclaim made by him on any person, who before service is already a party to the action, must do so within the period within which, by virtue of rule 389, he must serve on the plaintiff the defence to which the counterclaim is added.

(5) Where a copy of a counterclaim is required, under paragraph (2), to be served on a person who is not already a party to the action, Divisions 4 (except rule 306(4)), 5, 6 and 7 of this Part, will, subject to paragraph (4), apply in relation to the counterclaim and the proceedings arising from it as if —

(*a*) the counterclaim were a writ and the proceedings arising from it an action; and

(*b*) the party making the counterclaim were a plaintiff and the party against whom it is made a defendant in that action.

(6) A copy of a counterclaim required to be served on a person who is not already a party to the action must be endorsed with a notice, in Form 75, addressed to that person —

(*a*) stating the effect of rule 319, as applied by paragraph (5); and

(*b*) stating that he may enter an appearance in Form 72 and explaining how he may do so.

Joinder of parties

351.—(1) Subject to rule 352(1), 2 or more persons may be joined together in one action as plaintiffs or as defendants with the leave of the Court or where —

(*a*) if separate actions were brought by or against each of them, as the case may be, some common question of law or fact would arise in all the actions; and

(*b*) all rights to relief claimed in the action (whether they are joint, several or alternative) are in respect of or arise out of the same transaction or series of transactions.

(2) Where the plaintiff in any action claims any relief to which any other person is entitled jointly with him, all persons so entitled must, subject to the provisions of any written law and unless the Court gives leave to the contrary, be parties to the action.

(3) Any person who is so entitled under paragraph (2) and who does not consent to being joined as a plaintiff must, subject to any order made by the Court on an application for leave under that paragraph, be made a defendant.

(4) Paragraphs (2) and (3) do not apply to a probate action.

(5) Where relief is claimed in an action against a defendant who is jointly liable with some other person and also severally liable, that other person need not be made a defendant to the action.

(6) Where relief is claimed in an action in respect of a contract, against some but not all persons who are jointly, but not severally, liable under the contract, the Court may, on the application of any defendant to the action, order the stay of proceedings in the action until the other persons so liable are added as defendants.

(7) Paragraphs (5) and (6) do not apply to any relief claimed under section 15 of the Civil Law Act (Cap. 43).

Court may order separate trials, etc.

352.—(1) If claims in respect of 2 or more causes of action are included by a plaintiff in the same action or by a defendant in a counterclaim, or if 2 or more plaintiffs or defendants are parties to the same action, and it appears to the Court that the joinder of causes of action or of parties, as the case may be, may embarrass or delay the trial or is otherwise inconvenient, the Court may order separate trials or make such other order as may be expedient.

(2) If it appears on the application of any party against whom a counterclaim is made that the subject-matter of the counterclaim should for any reason be disposed of by a separate action, the Court may —

(*a*) order the counterclaim to be struck out;

(*b*) order the counterclaim to be tried separately; or

(*c*) make such other order as may be expedient.

Misjoinder and nonjoinder of parties

353.—(1) No cause or matter shall be defeated by reason of the misjoinder or nonjoinder of any party.

(2) Despite paragraph (1), the Court may in any cause or matter determine the issues or questions in dispute so far as they affect the rights and interests of the persons who are parties to the cause or matter.

(3) Subject to the provisions of this rule, at any stage of the proceedings in any cause or matter, the Court may, on such terms as it thinks just and either of its own motion or on application —

(*a*) order any person who has been improperly or unnecessarily made a party or who has for any reason ceased to be a proper or necessary party, to cease to be a party; or

(*b*) order any of the following persons to be added as a party:

(i) any person who should have been joined as a party or whose presence before the Court is necessary to ensure that all matters in the cause or matter may be effectually and completely determined and adjudicated upon;

(ii) any person between whom and any party to the cause or matter there may exist a question or issue arising out of or relating to or connected with any relief or remedy claimed in the cause or matter which in the opinion of the Court it would be just and convenient to determine as between the person and that party as well as between the parties to the cause or matter.

(4) An application by any person for an order under paragraph (3) adding him as a party must, except with the leave of the Court, be supported by an affidavit showing —

(*a*) his interest in the matters in dispute in the cause or matter; or

(*b*) as the case may be, the question or issue to be determined as between him and any party to the cause or matter.

(5) No person may be added as a plaintiff without his consent signified in writing or in such other manner as may be authorised.

Proceedings against estates

354.—(1) Where any person against whom an action would have lain has died but the cause of action survives, the action may, if no grant of probate or administration has been made, be brought against the estate of the deceased.

(2) Without prejudice to the generality of paragraph (1), an action brought against "the personal representatives of A.B. deceased" is to be treated, for the purposes of that paragraph, as having been brought against his estate.

(3) An action purporting to have been commenced against a person is to be treated, if he was dead at its commencement, as having been commenced against his estate in accordance with paragraph (1), whether or not a grant of probate or administration was made before its commencement.

(4) In any such action referred to in paragraph (1) or (3), the plaintiff must, during the period of validity for service of the writ or originating summons, apply to the Court —

(*a*) for an order —

(i) appointing a person to represent the deceased's estate for the purpose of the proceedings; or

(ii) if a grant of probate or administration has been made, that the personal representative of the deceased be made a party to the proceedings; and

(*b*) in either case in sub-paragraph (*a*)(i) or (ii), for an order that the proceedings be carried on against the person appointed or against the personal representative, as the case may be, as if that person appointed or that personal representative had been substituted for the estate.

(5) The Court may, at any stage of the proceedings and on such terms as it thinks just and either of its own motion or on an application —

(*a*) make any such order referred to in paragraph (4) and allow such amendments (if any) to be made; and

(*b*) make such other order as it thinks necessary to ensure that all matters in dispute in the proceedings may be effectually and completely determined and adjudicated upon.

(6) Before making an order under paragraph (5), the Court may require notice to be given to any insurer of the deceased who has an interest in the proceedings and to such (if any) of the persons having an interest in the estate as it thinks fit.

(7) Where an order is made under paragraph (5) appointing the Public Trustee to represent the deceased's estate, the appointment shall be limited to his accepting service of the writ or originating summons by which the action was begun.

(8) Despite paragraph (7), on making an order under paragraph (5) or on a subsequent application, the Court, with the consent of the Public Trustee, may direct that the appointment of the Public Trustee shall extend to taking further steps in the proceedings.

(9) Where an order is made under paragraph (5), rules 355(6) and 356(3) to (7) will apply as if the order had been made under rule 355 on the plaintiff's application.

(10) Where no grant of probate or administration has been made, any judgment or order given or made in the proceedings shall bind the estate to the same extent as it would have been bound if a grant had been made and a personal representative of the deceased had been a party to the proceedings.

Change of parties because of death, etc.

355.—(1) Where a party to an action dies or becomes bankrupt but the cause of action survives, the action shall not abate because of the death or bankruptcy.

(2) Where at any stage of the proceedings in any cause or matter the interest or liability of any party is assigned or transmitted to or devolves upon some other person, the Court may, if it thinks it necessary in order to ensure that all matters in dispute in the cause or matter may be effectually and completely determined and adjudicated upon, order —

(*a*) that other person to be made a party to the cause or matter; and

(*b*) the proceedings to be carried on as if that other person had been substituted for the first-mentioned party.

(3) An application for an order under paragraph (2) may be made ex parte.

(4) An order may be made under this rule for a person to be made a party to a cause or matter even if he is already a party to it on the other side of the record, or on the same side but in a different capacity.

(5) Where a person to be made a party to a cause or matter —

(*a*) is already a party on the other side, the order is to be treated as containing a direction that he shall cease to be a party on that other side; and

(*b*) is already a party on the same side but in another capacity, the order may contain a direction that he shall cease to be a party in that other capacity.

(6) The person on whose application an order is made under this rule must, unless the Court otherwise directs —

(*a*) serve the order on every other person who is a party to the cause or matter or who becomes or ceases to be a party by virtue of the order; and

(*b*) serve with the order on any person who becomes a defendant a copy of the writ or originating summons by which the cause or matter was begun.

(7) Any application to the Court by a person served with an order made ex parte under this rule for the discharge or variation of the order must be made within 14 days after the service of the order on that person.

Provisions consequential on making of order under rule 353 or 355

356.—(1) Where an order is made under rule 353 —

(*a*) the writ by which the action in question was begun must be amended accordingly and must be endorsed with —

(i) a reference to the order pursuant to which the amendment is made; and

(ii) the date on which the amendment is made;

(*b*) the amendment must be made within such period as may be specified in the order or, if no period is so specified, within 14 days after the making of the order; and

(*c*) if the order is for any person to be added as a defendant, the date on which the amendment is made shall be deemed to be the date on which the action was commenced against that person.

(2) Where by an order under rule 353 a person is to be made a defendant, the provisions in these Rules as to service of a writ of summons will apply accordingly to service of the amended writ on him.

(3) Where by an order under rule 353 or 355 a person is to be made a defendant, the provisions in these Rules as to entry of appearance will apply accordingly to entry of appearance by him, subject, in the case of a person to be made a defendant by an order under rule 355, to the modification that the time limited for appearing shall begin with the date —

(*a*) on which the order is served on him under rule 355(6); or

(*b*) if the order is not required to be served on him, on which the order is sealed with the seal of the Family Justice Courts.

(4) The entry of appearance must be in Form 72.

(5) A person who is to be added as a party or made a party in substitution for some other party, by an order under rule 353 or 355, shall not become a party until —

(*a*) where the order is made under rule 353, the writ has been amended in relation to him under this rule and (if he is a defendant) has been served on him; or

(*b*) where the order is made under rule 355, the order has been served on him under rule 355(6) or, if the order is not required to be served on him, the order has been sealed with the seal of the Family Justice Courts.

(6) Where, under paragraph (5), a person by order becomes a party in substitution for some other party, all things done in the course of the proceedings before the order is made will have effect in relation to the new party as they had in relation to the old party.

(7) Despite paragraph (6), an entry of appearance by the old party shall not dispense with an entry of appearance by the new party in Form 72.

(8) Paragraphs (1) to (7) apply in relation to an action begun by originating summons as they apply in relation to an action begun by writ.

Failure to proceed after death of party

357.—(1) If after the death of a plaintiff or defendant in any action the cause of action survives, but no order under rule 355 is made substituting as plaintiff any person in whom the cause of action vests or, as the case may be, the personal representatives of the deceased defendant, the defendant or, as the case may be, those representatives may apply to the Court for an order that unless the action is proceeded with within such time as may be specified in the order the action shall be struck out as against the plaintiff or defendant, as the case may be, who has died.

(2) In paragraph (1), where it is the plaintiff who has died, the Court must not make an order under this rule unless satisfied that due notice of the application has been given to the personal representatives (if any) of the deceased plaintiff and to any other interested persons who, in the opinion of the Court, must be notified.

(3) Where in any action a counterclaim is made by a defendant, this rule will apply in relation to the counterclaim as if —

(*a*) the counterclaim were a separate action; and

(*b*) the defendant making the counterclaim were the plaintiff and the person against whom it is made a defendant.

Actions for possession of immovable property

358.—(1) Without prejudice to rule 353, the Court may at any stage of the proceedings in an action for possession of immovable property order any person not a party to the action who is in possession of the immovable property (whether in actual possession or by a tenant) to be added as a defendant.

(2) An application by any person for an order under this rule may be made by ex parte summons, supported by an affidavit showing that he is in possession of the immovable property in question and if by a tenant, naming him.

(3) A person added as a defendant by an order under this rule must —

(*a*) serve a copy of the order on the plaintiff; and

(*b*) enter an appearance in the action within such period, if any, as may be specified in the order or, if no period is so specified, within 7 days after the making of the order.

(4) The provisions in these Rules as to entry of appearance apply accordingly to entry of appearance by a person added as a defendant under this rule.

Relator actions

359. Before the name of any person is used in any action as a relator, that person must give a written authorisation to use his name as such to his solicitor and the authorisation must be filed in the Registry.

Representative proceedings

360.—(1) Where numerous persons have the same interest in any proceedings, not being such proceedings referred to in rule 361, the proceedings may be begun, and, unless the Court otherwise orders, continued, by or against any one or more of them as representing all or as representing all except one or more of them.

(2) At any stage of the proceedings under this rule the Court may, on the plaintiff's application, and on such terms, if any, as it thinks fit, appoint any one or more of the defendants or other persons as representing whom the defendants are sued to represent all, or all except one or more, of those persons in the proceedings.

(3) Where the Court appoints, under paragraph (2), a person not named as a defendant, it must make an order under rule 353 adding that person as a defendant.

(4) A judgment or an order given in proceedings under this rule shall be binding on all the persons as representing whom the plaintiffs sue or, as the case may be, the defendants are sued.

(5) Despite paragraph (4), the judgment or order referred to in that paragraph shall not be enforced against any person who is not a party to the proceedings except with the leave of the Court.

(6) An application for the grant of leave under paragraph (5) must be made by summons which must be served personally on the person against whom it is sought to enforce the judgment or order.

(7) Despite that a judgment or order to which any such application relates is binding on the person against whom the application is made, that person may dispute liability to have the judgment or order enforced against him on the ground that by reason of facts and matters particular to his case he is entitled to be exempted from such liability.

(8) The Court hearing an application for the grant of leave under paragraph (5) may order the question whether the judgment or order is enforceable against the person against whom the application is made to be tried and determined in any manner in which any issue or question in an action may be tried and determined.

Representation of interested persons who cannot be ascertained, etc.

361.—(1) In any proceedings concerning —

(*a*) the administration of the estate of a deceased person;

(*b*) property subject to a trust; or

(*c*) the construction of a written instrument, including a statute,

the Court, if satisfied that it is expedient to do so, and that one or more of the conditions specified in paragraph (2) are satisfied, may appoint one or more persons to represent any person (including an unborn person) or class who is or may be interested (whether presently or for any future, contingent or unascertained interest) in or affected by the proceedings.

(2) The conditions for the exercise of the power conferred by paragraph (1) are as follows:

(*a*) that the person, the class or some member of the class, cannot be ascertained or cannot readily be ascertained;

(*b*) that the person, the class or some member of the class, though ascertained, cannot be found;

(*c*) that, though the person or the class and the members of the class can be ascertained and found, it appears to the Court expedient (regard being had to all the circumstances, including the amount at stake and the degree of difficulty of the point to be determined) to exercise the power for the purpose of saving expense.

(3) Where in any proceedings to which paragraph (1) applies, the Court exercises the power conferred by that paragraph, a judgment or an order of the Court given or made when the person or persons appointed in exercise of that power are before the Court shall be binding on the person or the class represented by the person or persons so appointed.

(4) Where, in any such proceedings, a compromise is proposed and some of the persons who are interested in, or who may be affected by, the compromise are not parties to the proceedings (including unborn or unascertained persons) but —

(*a*) there is some other person in the same interest before the Court who assents to the compromise or on whose behalf the Court sanctions the compromise; or

(*b*) the absent persons are represented by a person appointed under paragraph (1) who so assents,

the Court, if satisfied that the compromise will be for the benefit of the absent persons and that it is expedient to exercise this power, may approve the compromise and order that it is to be binding on the absent persons, and they shall be bound accordingly.

(5) Despite paragraph (4), an order shall not bind the absent persons where it has been obtained by fraud or non-disclosure of material facts.

Notice of action to non-parties

362.—(1) At any stage in an action to which this rule applies, the Court may, on the application of any party or of its own motion, direct that notice of the action be served on any person who is not a party to the action but who will or may be affected by any judgment given in the action.

(2) An application under this rule may be made by ex parte summons supported by an affidavit stating the grounds of the application.

(3) Every notice of an action under this rule must be —

(*a*) in Form 76; and

(*b*) served personally with a copy of the originating summons or writ and of all other pleadings served in the action.

(4) A person may, within 8 days after service on him of a notice under this rule, enter an appearance and he shall then become a party to the action.

(5) A person who is served a notice under this rule and who fails to enter an appearance within the time specified in paragraph (4) shall, subject to paragraph (6), be bound by any judgment given in the action as if he were a party to the action.

(6) If at any time after service of such notice on any person, the writ or originating summons is amended so as substantially to alter the relief claimed, the Court may direct that the judgment is not to bind such person unless a summons is issued and served upon him under this rule.

(7) This rule applies to any action relating to —

(*a*) the estate of a deceased person; or

(*b*) property subject to a trust.

Representation of beneficiaries by trustees, etc.

363.—(1) Any proceedings, including proceedings to enforce a security by foreclosure or otherwise, may be brought by or against trustees, executors or administrators in their capacity as such without joining any of the persons having a beneficial interest in the trust or estate, as the case may be.

(2) Any judgment or order given or made in the proceedings referred to in paragraph (1) shall be binding on the persons referred to in that paragraph, unless the Court in the same or other proceedings otherwise orders on the ground that the trustees, executors or administrators, as the case may be, could not or did not in fact represent the interests of those persons in the first-mentioned proceedings.

(3) Paragraph (1) is without prejudice to the power of the Court to order any person having such an interest to be made a party to the proceedings or to make an order under rule 361.

Representation of deceased person interested in proceedings

364.—(1) Where in any proceedings it appears to the Court that a deceased person was interested in the matter in question in the proceedings and that he has no personal representative, the Court may —

(*a*) on the application of any party to the proceedings, proceed in the absence

of a person representing the estate of the deceased person; or

(*b*) by order appoint a person to represent that estate for the purposes of the proceedings.

(2) Any such order under paragraph (1), and any judgment or order subsequently given or made in the proceedings, shall bind the estate of the deceased person to the same extent as it would have been bound had a personal representative of that person been a party to the proceedings.

(3) The Court may, before making an order under this rule, require notice of the application for the order to be given to such (if any) of the persons having an interest in the estate as it thinks fit.

Declaratory judgment

365.—(1) No action or other proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought in that action or proceeding.

(2) The Court may make binding declarations of right whether or not any consequential relief is or could be claimed in such action or other proceeding referred to in paragraph (1).

Conduct of proceedings

366. The Court may give the conduct of any action, inquiry or other proceeding to such person as it thinks fit.

Division 10 — Third party and similar proceedings

Third party notice

367.—(1) Where in any action a defendant —

(*a*) claims against a person not already a party to the action any contribution or indemnity;

(*b*) claims against such a person any relief or remedy relating to or connected with the original subject-matter of the action and substantially the same as some relief or remedy claimed by the plaintiff; or

(*c*) requires that any question or issue relating to or connected with the original subject-matter of the action should be determined not only as between the plaintiff and the defendant but also as between either or both of them and a

person not already a party to the action,

the defendant may, after having entered an appearance if required to do so under these Rules, issue a notice in Form 77 or 78, whichever is appropriate (called in this Division a third party notice).

(2) The third party notice must contain —

(*a*) a statement of the nature of the claim made against the defendant; and

(*b*) as the case may be, either a statement of the nature and grounds of the claim made by the defendant or of the question or issue required to be determined.

(3) Despite paragraph (1), a defendant to an action may not issue a third party notice without the leave of the Court unless —

(*a*) the action was begun by writ; and

(*b*) the defendant issues the notice before serving his defence on the plaintiff.

(4) Where a third party notice is served on the person against whom it is issued, he shall as from the time of service be a party to the action (called in this Division a third party) with the same rights in respect of his defence against any claim made against him in the notice and otherwise as if he had been duly sued in the ordinary way by the defendant by whom the notice is issued.

Application for leave to issue third party notice

368.—(1) An application for leave to issue a third party notice may be made by ex parte summons in Form 79.

(2) The Court may direct the ex parte summons to be served.

(3) An application for leave to issue a third party notice must be supported by an affidavit stating —

(*a*) the nature of the claim made by the plaintiff in the action;

(*b*) the stage which proceedings in the action have reached;

(*c*) the nature of the claim made by the applicant or particulars of the question or issue required to be determined, as the case may be, and the facts on which the proposed third party notice is based; and

(*d*) the name and address of the person against whom the third party notice is to be issued.

Issue and service of, and entry of appearance to third party notice

369.—(1) The order granting leave to issue a third party notice may contain directions as to the period within which the notice is to be issued.

(2) A copy of the writ or originating summons by which the action was begun and the pleadings (if any) served in the action must be served together with a third party notice.

(3) Subject to paragraphs (1) and (2), in an action begun by writ, rule 299 and Divisions 4 (except rule 306(4)), 5 and 6 of this Part apply in relation to a third party notice and to the proceedings begun thereby as if —

(*a*) the third party notice were a writ and the proceedings begun thereby an action; and

(*b*) the defendant issuing the third party notice were a plaintiff and the person against whom it is issued a defendant in that action.

(4) Subject to paragraphs (1) and (2), in an action begun by originating summons, rule 299 and Divisions 4 (except rule 306(3) and (4)) and 5 of this Part apply in relation to a third party notice and to the proceedings begun thereby as if —

(*a*) the third party notice were an originating summons and the proceedings begun thereby an action; and

(*b*) the defendant issuing the third party notice were a plaintiff and the person against whom it is issued a defendant in that action.

Third party directions

370.—(1) The defendant who issued a third party notice must apply to the Court for directions by summons in Form 80 and the summons must be served on all the other parties to the action.

(2) Despite paragraph (1), where the action was begun by writ, the defendant must not make an application under that paragraph before the third party enters an appearance in Form 72.

(3) If no summons is served on the third party under paragraph (1), the third party may apply, by summons in Form 80, to the Court for directions or for an order to set aside the third party notice, and the summons must be served on all parties to the action.

(4) The third party may make an application under paragraph (3) —

(*a*) in an action begun by writ, not earlier than 7 days after entering an appearance; or

(*b*) in an action begun by originating summons, not earlier than 14 days after service of the notice on him.

(5) Where an application for directions is made under this rule, the Court may —

(*a*) if the liability of the third party to the defendant who issued the third party notice is established on the hearing, order such judgment as the nature of the case may require to be entered against the third party in favour of the defendant;

(*b*) order any claim, question or issue stated in the third party notice to be tried in such manner as the Court may direct; or

(*c*) dismiss the application and terminate the proceedings on the third party notice; and may do so either before or after any judgment in the action has been signed by the plaintiff against the defendant.

(6) Without prejudice to paragraph (7), where an application for directions is made under this rule, the Court may give the third party leave —

(*a*) to defend the action, either alone or jointly with any defendant, upon such terms as may be just; or

(*b*) to appear at the trial or hearing and to take such part in the trial or hearing as may be just.

(7) Where an application for directions is made under this rule, the Court may make such orders and give such directions —

(*a*) as appear to the Court proper for having the rights and liabilities of the parties most conveniently determined and enforced; and

(*b*) as to the extent to which the third party is to be bound by any judgment or decision in the action.

(8) An order made or direction given by the Court under this rule —

(*a*) must be in Form 81; and

(*b*) may be varied or rescinded by the Court at any time.

Default of third party, etc.

371.—(1) If a third party who is required by these Rules to enter an appearance does not do so or, having been ordered to serve a defence, fails to do so —

(*a*) he shall be deemed to admit any claim stated in the third party notice and

shall be bound by any judgment (including a judgment by consent) or decision in the action in so far as it is relevant to any claim, question or issue stated in that notice; and

(*b*) the defendant by whom the third party notice was issued may, if judgment in default is given against him in the action, at any time after satisfaction of that judgment and, with the leave of the Court, before satisfaction of that judgment, enter judgment against the third party in respect of any contribution or indemnity claimed in the notice, and, with the leave of the Court, in respect of any other relief or remedy claimed in the notice.

(2) If a third party or the defendant by whom a third party notice was issued fails to serve any pleading which he is ordered to serve, the Court may, on the application by summons of that defendant or the third party, as the case may be —

(*a*) order such judgment to be entered for the applicant as he is entitled to on the pleadings; or

(*b*) make such other order as appears to the Court necessary to do justice between the parties.

(3) The Court may at any time set aside or vary a judgment entered under paragraph (1)(*b*) or (2) on such terms (if any) as it thinks just.

Setting aside third party proceedings

372. The Court may set aside proceedings on a third party notice, at any stage of the proceedings.

Judgment between defendant and third party

373.—(1) Where in any action a defendant has served a third party notice, the Court may at or after the trial of the action, or, if the action is decided otherwise than by trial, on an application by summons, order such judgment as the nature of the case may require to be entered for the defendant against the third party or for the third party against the defendant.

(2) Where in an action judgment is given against a defendant and judgment is given for the defendant against a third party, execution shall not issue against the third party without the leave of the Court until the judgment against the defendant has been satisfied.

Claims and issues between defendant and some other party

374.—(1) Where in any action a defendant —

(*a*) claims against a person who is already a party to the action any contribution or indemnity;

(*b*) claims against such a person any relief or remedy relating to or connected with the original subject-matter of the action and substantially the same as some relief or remedy claimed by the plaintiff; or

(*c*) requires that any question or issue relating to or connected with the original subject-matter of the action should be determined not only as between the plaintiff and himself but also as between either or both of them and some other person who is already a party to the action,

the defendant may, after entering an appearance if required to do so under these Rules, without leave, issue and serve on that person a notice containing a statement of the nature and grounds of the defendant's claim or, as the case may be, of the question or issue required to be determined.

(2) Where a defendant makes a claim referred to in paragraph (1) that could be made by him by counterclaim in the action, paragraph (1) will not apply in relation to the claim.

(3) No appearance to a notice referred to in paragraph (1) is necessary if —

(*a*) the person on whom it is served has entered an appearance in the action or is a plaintiff in the action; or

(*b*) the action was begun by originating summons.

(4) Where no appearance is necessary under paragraph (3), the same procedure shall be adopted for the determination between the defendant by whom, and the person on whom, such a notice is served of the claim, question or issue stated in the notice as would be appropriate under this Division if the person served with the notice were a third party and (where, in an action begun by writ, he has entered an appearance in the action or is a plaintiff) had entered an appearance to the notice.

(5) If no summons under rule 370(1) is served on the person on whom a notice has been served under this rule, that person may, not earlier than 14 days after service of the notice on him, apply to the Court for directions or for an order to set aside the notice.

(6) An application under paragraph (5) must be made by summons in Form 80 and must be served on all the other parties to the action.

Claims by third and subsequent parties

375.—(1) Where a defendant has served a third party notice and the third party makes a claim or requirement referred to in rule 367 or 374, this Division applies, with the modification mentioned in paragraph (2) and any other necessary modifications, as if the third party were a defendant; and similarly where any further person to whom, by virtue of this rule, this Division applies as if he were a third party making such a claim or requirement.

(2) The modification referred to in paragraph (1) is that paragraph (3) shall have effect in relation to the issue of a notice under rule 367 by a third party in substitution for rule 367(3).

(3) A third party may not issue a notice under rule 367 without the leave of the Court unless —

(*a*) the action in question was begun by writ; and

(*b*) he issues the notice before the expiration of 14 days after the time limited for appearing to the notice issued against him.

Counterclaim by defendant

376. Where in any action a counterclaim is made by a defendant, rules 367 to 375 will apply in relation to the counterclaim as if the subject-matter of the counterclaim were the original subject-matter of the action, and as if the person making the counterclaim were the plaintiff and the person against whom it is made a defendant.

Division 11 — Interpleader

Entitlement to relief by way of interpleader

377. Where —

(*a*) the person seeking relief is under liability for any debt, money or goods or chattels, for or in respect of which he has been or expects to be, sued by 2 or more parties making adverse claims on the debt, money, goods or chattels; or

(*b*) the bailiff or other officer of the Court is charged with the execution of process of the Court, and claim is made to any money or goods or chattels taken or intended to be taken in execution under any process, or to the proceeds or value of any such goods or chattels by any person other than the person against whom the process is issued, and to order the sale of any property subject to interpleader proceedings,

the person under liability or (subject to rule 378) the bailiff, may apply to the Court for relief by way of interpleader.

Claim to goods, etc., taken in execution

378.—(1) Any person making a claim to or in respect of any money, goods or other movable property taken or intended to be taken in execution under process of the Court, or to the proceeds or value of any such goods or property, must give notice of his claim in Form 82 to the bailiff charged with the execution of the process.

(2) The person making a claim must include, in his notice, a statement of his address, and that address shall be his address for service.

(3) On receipt of a claim made under this rule, the bailiff must forthwith give notice of the receipt in Form 83 to the execution creditor.

(4) The execution creditor must, within 4 days after receiving the notice, give notice in Form 84 to the bailiff informing the bailiff whether the execution creditor admits or disputes the claim.

(5) An execution creditor who gives notice in accordance with paragraph (4) admitting a claim will only be liable to the bailiff for any fees and expenses incurred by the bailiff before receipt of that notice.

(6) The bailiff may apply to the Court for relief under this Division where —

(*a*) he receives a notice from an execution creditor under paragraph (4) disputing a claim, or the execution creditor fails, within the period mentioned in that paragraph, to give the required notice; and

(*b*) the claim under this rule is not withdrawn.

(7) The bailiff who receives a notice from an execution creditor under paragraph (4) admitting a claim under this rule must withdraw from possession of the money, goods or other movable property claimed.

Mode of application

379.—(1) An application for relief under this Division must be made —

(*a*) by originating summons; or

(*b*) where the application for relief is made in a pending action, by summons in that action in one of the forms in Form 85.

(2) Subject to paragraph (3), an originating summons or a summons under this rule

filed by the bailiff or a person under liability must be supported by a statement in Form 86 or an affidavit in Form 87, as the case may be, stating that the applicant —

(*a*) claims no interest in the subject-matter in dispute other than for charges or costs;

(*b*) does not collude with any of the claimants to that subject-matter; and

(*c*) is willing to pay or transfer that subject-matter into Court or to dispose of it as the Court may direct.

(3) Where the applicant is the bailiff, he is not required to file a statement in Form 86 unless the Court so directs.

Service of originating summons or summons

380.—(1) Unless the Court otherwise orders, the originating summons or an interpleader summons filed under rule 379 must be served at least 7 days before the return day.

(2) The originating summons referred to in paragraph (1) must be served personally.

(3) The interpleader summons referred to in paragraph (1) need not be served personally unless ordered by the Court.

Powers of Court hearing originating summons or summons

381.—(1) Where on the hearing of an originating summons or a summons under this Division all the persons by whom adverse claims to the subject-matter in dispute (called in this Division the claimants) appear, the Court may order —

(*a*) that any claimant be made a defendant in any action pending with respect to the subject-matter in dispute in substitution for or in addition to the applicant for relief under this Division; or

(*b*) that an issue between the claimants be stated and tried and may direct which of the claimants is to be plaintiff and which is to be defendant.

(2) The Court may summarily determine the question at issue between the claimants and make an order accordingly on such terms as may be just, where —

(*a*) the applicant in an originating summons or a summons under this Division is the bailiff;

(*b*) all the claimants consent or any of them so requests; or

(*c*) the question at issue between the claimants is a question of law and the

facts are not in dispute.

(3) Where a claimant, who has been duly served with an originating summons or a summons for relief under this Division, does not appear on the hearing or, having appeared, fails or refuses to comply with an order made in the proceedings, the Court may make an order declaring the claimant, and all persons claiming under him, forever barred from prosecuting his claim against the applicant for such relief and all persons claiming under him.

(4) An order of the Court under paragraph (3) shall not affect the rights of the claimants as between themselves.

Power to order sale of goods taken in execution

382. Where an application for relief under this Division is made by the bailiff who has taken possession of any goods or other movable property in execution under any process, and a claimant alleges that he is entitled, under a bill of sale or otherwise, to the goods or property by way of security for debt, the Court may —

(*a*) order those goods or property or any part of the goods or property to be sold; and

(*b*) direct that the proceeds of sale be applied in such manner and on such terms as may be just and as may be specified in the order.

Power to stay proceedings

383. Where a defendant to an action applies for relief under this Division in the action, the Court may by order stay all further proceedings in the action.

Other powers

384. Subject to rules 377 to 383, the Court may, in or for the purposes of any interpleader proceedings, make such order as to costs or any other matter as it thinks just.

One order in several causes or matters

385.—(1) The Court may make an order in any interpleader proceedings in several causes or matters pending before different Judges, where the Court considers it necessary or expedient to make such order.

(2) The order in paragraph (1) must be entitled in all those causes or matters and is binding on all the parties to those causes or matters.

Discovery

386. Divisions 19, 21 and 22 of this Part apply, with the necessary modifications, in relation to an interpleader issue as they apply in relation to any other cause or matter.

Trial of interpleader issue

387.—(1) Division 31 of this Part applies, with the necessary modifications, to the trial of an interpleader issue as it applies to the trial of an action.

(2) The Court by whom an interpleader issue is tried may give such judgment or make such order as finally to dispose of all questions arising in the interpleader proceedings.

(3) The judgment must be in one of the forms in Form 88.

Division 12 — Pleadings

Service of statement of claim

388.—(1) Unless the Court gives leave to the contrary or a statement of claim is endorsed on the writ, the plaintiff must serve a statement of claim on the defendant or, if there are 2 or more defendants, on each defendant.

(2) The plaintiff must serve the statement of claim when the writ is served on that defendant or at any time after service of the writ but before the expiration of 14 days after that defendant enters an appearance.

Service of defence

389. A defendant who enters an appearance in, and intends to defend, an action must, unless the Court gives leave to the contrary, serve a defence on the plaintiff before the expiration of 14 days after the time limited for appearing or after the statement of claim is served on him, whichever is the later.

Service of reply and defence to counterclaim

390.—(1) A plaintiff on whom a defendant serves a defence must serve a reply on that defendant if it is needed for compliance with rule 394; and if no reply is served, rule 400(1) will apply.

(2) A plaintiff on whom a defendant serves a counterclaim must, if he intends to defend it, serve on that defendant a defence to counterclaim.

(3) Where a plaintiff serves both a reply and a defence to counterclaim on any defendant, he must include the reply and the defence to counterclaim in the same document.

(4) A reply to any defence must be served by the plaintiff before the expiration of 14 days after the service on him of that defence.

(5) A defence to counterclaim must be served by the plaintiff before the expiration of 14 days after the service on him of the counterclaim to which it relates.

Pleadings subsequent to reply

391. No pleading subsequent to a reply or a defence to counterclaim shall be served except with the leave of the Court.

Formal requirements of pleadings

392.—(1) Every pleading in an action must bear on its face —

(*a*) the year in which the writ in the action was issued and the number of the action;

(*b*) the title of the action; and

(*c*) the description of the pleading.

(2) Every pleading must, if necessary, be divided into paragraphs numbered consecutively, each allegation being so far as convenient contained in a separate paragraph.

(3) Dates, sums and other numbers must be expressed in a pleading in figures and not in words.

(4) Every pleading of a party must be endorsed —

(*a*) where the party sues or defends in person, with his name and address; and

(*b*) in any other case, with the name or firm and business address of the solicitor by whom it was served.

(5) Every pleading of a party must be signed by the party's solicitor or by the party, if he sues or defends in person.

Facts, not evidence, to be pleaded

393.—(1) Subject to this rule and rules 396, 397 and 398, every pleading —

(*a*) must contain, and contain only, a statement in a summary form of the material facts on which the party pleading relies for his claim or defence, as the case may be, and the statement must be as brief as the nature of the case admits; and

(*b*) must not contain the evidence by which those facts are to be proved.

(2) Without prejudice to paragraph (1), the effect of any document or the purport of any conversation referred to in the pleading must, if material, be briefly stated, and the precise words of the document or conversation must not be stated, except in so far as those words are themselves material.

(3) A party need not plead any fact if it is presumed by law to be true or the burden of disproving it lies on the other party, unless the other party has specifically denied it in his pleading.

(4) A statement that a thing has been done or that an event has occurred, being a thing or event the doing or occurrence of which, as the case may be, constitutes a condition precedent necessary for the case of a party is to be implied in his pleading.

Matters which must be specifically pleaded

394.—(1) A party must in any pleading subsequent to a statement of claim plead specifically any matter, for example, performance, release, any relevant statute of limitation, fraud or any fact showing illegality —

(*a*) which he alleges makes any claim or defence of the opposite party not maintainable;

(*b*) which, if not specifically pleaded, might take the opposite party by surprise; or

(*c*) which raises issues of fact not arising out of the preceding pleading.

(2) Without prejudice to paragraph (1), a defendant to an action for the recovery of immovable property must plead specifically every ground of defence on which he relies, and a plea that he is in possession of the immovable property by himself or his tenant is not sufficient.

Matter may be pleaded whenever arising

395. Subject to rules 393(1), 396 and 401(2) and (3), a party may in any pleading plead any matter which has arisen at any time, whether before or since the issue of the writ.

Departure

396.—(1) A party must not in any pleading make an allegation of fact, or raise any new ground or claim, inconsistent with a previous pleading of his.

(2) Paragraph (1) is not to be taken as prejudicing the right of a party to amend, or apply for leave to amend, his previous pleading so as to plead the allegations or claims in the alternative.

Points of law may be pleaded

397. A party may by his pleading raise any point of law.

Particulars of pleading

398.—(1) Subject to paragraph (2), every pleading must contain the necessary particulars of any claim, defence or other matter pleaded including, without prejudice to the generality of the foregoing words —

(*a*) particulars of any misrepresentation, fraud, breach of trust, wilful default or undue influence on which the party pleading relies; and

(*b*) where a party pleading alleges any condition of the mind of any person, whether any disorder or disability of mind or any malice, fraudulent intention or other condition of mind except knowledge, particulars of the facts on which the party relies.

(2) Where it is necessary to give particulars of debt, expenses or damages and those particulars exceed 3 folios —

(*a*) the particulars must be set out in a separate document referred to in the pleading; and

(*b*) the pleading must state —

(i) whether the document has already been served and, if so, when; or

(ii) whether the document is to be served with the pleading.

(3) The Court may, on such terms as it thinks just, order a party to serve on any other party particulars of any claim, defence or other matter stated in his pleading, or in any affidavit of his ordered to stand as a pleading, or a statement of the nature of the case on which he relies.

(4) Where a party alleges as a fact that a person had knowledge or notice of some

fact, matter or thing, then, without prejudice to the generality of paragraph (3), the Court may, on such terms as it thinks just, order that party to serve on any other party —

(*a*) where he alleges knowledge, particulars of the facts on which he relies; and

(*b*) where he alleges notice, particulars of the notice.

(5) An order under this rule must not be made before service of the defence unless, in the opinion of the Court, the order is necessary or desirable to enable the defendant to plead or for some other special reason.

(6) Where the applicant for an order under this rule did not apply by letter for the particulars he requires, the Court may refuse to make the order unless it is of the opinion that there were sufficient reasons for an application by letter not having been made.

(7) The particulars requested or ordered and supplied must be served in accordance with Form 89.

Admissions and denials

399.—(1) Subject to paragraph (5), any allegation of fact made by a party in his pleading is deemed to be admitted by the opposite party unless it is traversed by that opposite party in his pleading or a joinder of issue under rule 400 operates as a denial of it.

(2) A traverse may be made either by a denial or by a statement of non-admission and either expressly or by necessary implication.

(3) Subject to paragraph (5), every allegation of fact made in a statement of claim or counterclaim which the party on whom it is served does not intend to admit must be specifically traversed by him in his defence or defence to counterclaim, as the case may be.

(4) A general denial of such allegations referred to in paragraph (3), or a general statement of non-admission of such allegations, is not a sufficient traverse of them.

(5) Any allegation that a party has suffered damage and any allegation as to the amount of damages is deemed to be traversed unless specifically admitted.

Denial by joinder of issue

400.—(1) If there is no reply to a defence, there is an implied joinder of issue on that defence.

(2) Subject to paragraph (3) —

(*a*) there is at the close of pleadings an implied joinder of issue on the pleading last served; and

(*b*) a party may in his pleading expressly join issue on the next preceding pleading.

(3) There can be no joinder of issue, implied or express, on a statement of claim or counterclaim.

(4) A joinder of issue operates as a denial of every material allegation of fact made in the pleading on which there is an implied or express joinder of issue unless, in the case of an express joinder of issue, any such allegation is excepted from the joinder and is stated to be admitted.

(5) Where, in an express joinder of issue, any such allegation is excepted from the joinder and is stated to be admitted, the express joinder of issue will operate as a denial of every other such allegation.

Statement of claim

401.—(1) A statement of claim must state specifically the relief or remedy which the plaintiff claims; but costs need not be specifically claimed.

(2) A statement of claim must not contain any allegation or claim in respect of a cause of action unless that cause of action —

(*a*) is mentioned in the writ; or

(*b*) arises from facts which are the same as, or include or form part of, facts giving rise to a cause of action that is mentioned in the writ.

(3) Subject to paragraph (2), a plaintiff may in his statement of claim alter, modify or extend any claim made by him in the endorsement of the writ without amending the endorsement.

Defence of tender

402.—(1) Where in any action a defence of tender before action is pleaded, the defendant must pay into Court in accordance with Division 16 of this Part the amount alleged to have been tendered.

(2) The tender shall not be available as a defence unless payment into Court has been made.

Defence of set-off

403. Where a claim by a defendant to a sum of money (whether of an ascertained amount or not) is relied on as a defence to the whole or part of a claim made by the plaintiff, it may be included in the defence and set-off against the plaintiff's claim, whether or not it is also added as a counterclaim.

Counterclaim and defence to counterclaim

404. Without prejudice to the general application of this Division to a counterclaim and a defence to counterclaim or to any provision in this Division which applies to either of those pleadings specifically —

(*a*) rule 401(1) applies to a counterclaim as if the counterclaim were a statement of claim and the defendant making it a plaintiff; and

(*b*) rules 394(2), 402 and 403 apply, with the necessary modifications, to a defence to counterclaim as they apply to a defence.

Striking out pleadings and endorsements

405.—(1) The Court may at any stage of the proceedings order to be struck out or amended any pleading or the endorsement of any writ in the action, or anything in any pleading or in the endorsement, on the ground that —

(*a*) it discloses no reasonable cause of action or defence, as the case may be;

(*b*) it is scandalous, frivolous or vexatious;

(*c*) it may prejudice, embarrass or delay the fair trial of the action; or

(*d*) it is otherwise an abuse of the process of the Court.

(2) In addition to an order made under paragraph (1), the Court may order the action to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

(3) No evidence shall be admissible on an application under paragraph (1)(*a*).

(4) This rule shall, as far as applicable, apply to an originating summons as if it were a pleading.

Close of pleadings

406.—(1) The pleadings in an action are deemed to be closed —

(*a*) at the expiration of 14 days after service of the reply or, if there is no reply but only a defence to counterclaim, after service of the defence to counterclaim; or

(*b*) if neither a reply nor a defence to counterclaim is served, at the expiration of 14 days after service of the defence.

(2) The pleadings in an action are deemed to be closed at the time provided by paragraph (1) notwithstanding that any request or order for particulars has been made but has not been complied with at that time.

Filing of pleadings

407. Every pleading must be filed in the Registry.

Trial without pleadings

408.—(1) Where in an action to which this rule applies any defendant has entered an appearance in the action, the plaintiff or that defendant may apply to the Court by summons for an order that the action be tried without pleadings or further pleadings, as the case may be.

(2) If, on the hearing of an application under this rule, the Court is satisfied that the issues in dispute between the parties can be defined without pleadings or further pleadings, or that for any other reason the action can properly be tried without pleadings or further pleadings, as the case may be, the Court —

(*a*) shall order the action to be so tried; and

(*b*) may direct the parties to prepare a statement of the issues in dispute or, if the parties are unable to agree to such a statement, may settle the statement itself.

(3) Where the Court makes an order under paragraph (2) or where it dismisses an application for such an order —

(*a*) it may give such directions as to the further conduct of the action as may be appropriate; and

(*b*) rules 481 to 486 shall, with the omission of so much of rule 486(1) as requires parties to serve a notice specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application under this rule were a summons for directions.

Division 13 — Default of pleadings

Default in service of statement of claim

409.—(1) Where the plaintiff, who is required under these Rules to serve a statement of claim on the defendant, fails to do so, the defendant may, after the expiration of the period fixed under these Rules for service of the statement of claim, apply to the Court for an order to dismiss the action.

(2) On an application under paragraph (1), the Court may dismiss the action or make such other order on such terms as it thinks just.

Default of defence: Claim for liquidated demand

410.—(1) Where the plaintiff's claim against a defendant is for a liquidated demand only, and that defendant fails to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed under these Rules for service of the defence —

(*a*) enter final judgment against that defendant for a sum not exceeding that claimed by the writ in respect of the demand and for costs; and

(*b*) proceed with the action against the other defendants, if any.

(2) Rule 328(2) and (3) applies for the purposes of this rule as it applies for the purposes of that rule.

Default of defence: Claim for unliquidated damages

411. Where the plaintiff's claim against a defendant is for unliquidated damages only, and that defendant fails to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed under these Rules for service of the defence —

(*a*) enter interlocutory judgment against that defendant for damages to be assessed and costs; and

(*b*) proceed with the action against the other defendants, if any.

Default of defence: Claim for possession of immovable property

412.—(1) Subject to paragraph (2), where the plaintiff's claim against a defendant is for possession of immovable property only, and that defendant fails to serve a defence on the plaintiff, the plaintiff may —

(*a*) enter judgment for possession of the immovable property as against that defendant and for costs; and

(*b*) proceed with the action against the other defendants, if any.

(2) The plaintiff may only do the matters referred to in paragraph (1)(*a*) and (*b*) —

(*a*) after the expiration of the period fixed under these Rules for service of the

defence; and

(*b*) on producing a certificate by his solicitor, or (if he sues in person) an affidavit, stating that he is not claiming any relief in the action of the nature specified in Order 83, Rule 1 of the Rules of Court (Cap. 322, R 5).

(3) Where there is more than one defendant, judgment entered under this rule shall not be enforced against any defendant unless judgment for possession of the immovable property has been entered against all the defendants.

Default of defence: Mixed claim

413. Where the plaintiff makes against a defendant 2 or more of the claims referred to in rules 410, 411 and 412, and no other claim, and that defendant fails to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed under these Rules for service of the defence —

(*a*) enter against that defendant such judgment in respect of any such claim as he would be entitled to enter under those rules if that were the only claim made; and

(*b*) proceed with the action against the other defendants, if any.

Default of defence: Other claims

414.—(1) Where the plaintiff makes against a defendant or defendants a claim of a description not mentioned in rules 410, 411 and 412, and the defendant or all the defendants (where there is more than one) fails or fail to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed under these Rules for service of the defence, apply to the Court for judgment.

(2) The Court shall, on the hearing of an application under paragraph (1), give such judgment as the plaintiff appears entitled to on his statement of claim.

(3) Where the plaintiff makes a claim referred to in paragraph (1) against more than one defendant, and if one of the defendants makes default as mentioned in that paragraph, the plaintiff may —

(*a*) if his claim against the defendant in default is severable from his claim against the other defendants, apply under that paragraph for judgment against that defendant, and proceed with the action against the other defendants; or

(*b*) set down the action by summons for judgment against the defendant in

default at the time when the action is set down for trial, or is set down by summons for judgment, against the other defendants.

(4) An application under paragraph (1) must be made by summons.

Default of defence to counterclaim

415.—(1) A defendant who counterclaims against a plaintiff is to be treated for the purposes of rules 410 to 414 as if he were a plaintiff who had made against a defendant the claim made in the counterclaim.

(2) Where the plaintiff or any other party against whom the counterclaim is made fails to serve a defence to counterclaim, rules 410 to 414 will apply —

(*a*) as if the counterclaim were a statement of claim, the defence to counterclaim a defence and the parties making the counterclaim and against whom it is made were plaintiffs and defendants respectively; and

(*b*) as if references to the period fixed under these Rules for service of the defence were references to the period so fixed for service of the defence to counterclaim.

Entry of judgment

416. Judgment is not to be entered against a defendant under this Division unless a request to enter judgment in Form 73 is filed with the judgment in Form 74.

Setting aside judgment

417. The Court may, on such terms as it thinks just, set aside or vary any judgment entered pursuant to this Division.

Division 14 — Amendment

Amendment of writ without leave

418.—(1) Subject to paragraph (3), the plaintiff may, without the leave of the Court, amend the writ once at any time before the pleadings in the action begun by the writ are deemed to be closed.

(2) Where a writ is amended under this rule after service of the writ, then, unless the Court otherwise directs on an application made ex parte, the amended writ must be served on each defendant to the action.

(3) This rule does not apply in relation to an amendment which consists of any of the following, unless the amendment is made before the service of the writ on any party to the action:

(*a*) the addition, omission or substitution of a party to the action;

(*b*) the alteration of the capacity in which a party to the action sues or is sued;

(*c*) the addition or substitution of a new cause of action;

(*d*) without prejudice to rule 420(1) and (2), an amendment of the statement of claim (if any) endorsed on the writ.

Amendment of appearance

419. A defendant may not amend his memorandum of appearance without the leave of the Court.

Amendment of pleadings without leave

420.—(1) A party may, without the leave of the Court, amend any pleading of his once at any time before the pleadings are deemed to be closed.

(2) Where a party amends his pleading without leave under paragraph (1), he must serve the amended pleading on the opposite party.

(3) Where the plaintiff serves an amended statement of claim on a defendant —

(*a*) the defendant, if he has already served a defence on the plaintiff, may amend his defence; and

(*b*) the period for service of the defendant's defence or amended defence, as the case may be, shall be either the period fixed under these Rules for service of his defence or a period of 14 days after the amended statement of claim is served on him, whichever expires later.

(4) Where the defendant serves an amended defence on the plaintiff —

(*a*) the plaintiff, if he has already served a reply on that defendant, may amend his reply; and

(*b*) the period for service of the plaintiff's reply or amended reply, as the case may be, shall be 14 days after the amended defence is served on him.

(5) In paragraphs (3) and (4), references to a defence and a reply include references to a counterclaim and a defence to counterclaim respectively.

(6) Where a defendant serves an amended counterclaim on a party (other than the plaintiff) against whom the counterclaim is made, paragraph (3) will apply as if —

(*a*) the counterclaim were a statement of claim; and

(*b*) the party by whom the counterclaim is made were the plaintiff and the party against whom it is made a defendant.

(7) Where a party has pleaded to a pleading which is subsequently amended and served on him under paragraph (2) and he does not amend his pleading under paragraphs (1) to (6) —

(*a*) he shall be taken to rely on the pleading in answer to the amended pleading; and

(*b*) rule 400(2) shall have effect in such a case as if the amended pleading had been served at the time when that pleading, before its amendment under paragraph (1), was served.

Application to disallow amendment made without leave

421.—(1) A party may, within 14 days after the service on him of a writ amended under rule 418(1) or of a pleading amended under rule 420(1), apply to the Court to disallow the amendment.

(2) Where the Court hearing an application under this rule is satisfied that if an application for leave to make the amendment in question had been made under rule 422 at the date when the amendment was made under rule 418(1) or 420(1) leave to make the amendment or part of the amendment would have been refused, it must order the amendment or that part to be struck out.

(3) The Court may make an order under this rule on such terms as to costs or otherwise as it thinks just.

Amendment of writ or pleading with leave

422.—(1) Subject to rules 353 to 356 and this rule, the Court may at any stage of the proceedings allow the plaintiff to amend his writ, or any party to amend his pleading —

(*a*) on such terms as to costs or otherwise as may be just; and

(*b*) in such manner (if any) as the Court may direct.

(2) Where an application to the Court for leave to make the amendment mentioned in paragraph (3), (4) or (5) is made after any relevant period of limitation current at the date of issue of the writ has expired, the Court may nevertheless grant such leave in the

circumstances mentioned in that paragraph if it thinks it just to do so.

(3) The Court may allow an amendment under paragraph (2) to correct the name of a party even if the effect of the amendment will be to substitute a new party, if the Court is satisfied that the mistake sought to be corrected —

(*a*) was a genuine mistake; and

(*b*) was not misleading or such as to cause any reasonable doubt as to the identity of the person intending to sue or intended to be sued (as the case may be).

(4) The Court may allow an amendment under paragraph (2) to alter the capacity in which a party sues (whether as plaintiff or as defendant by counterclaim) if the capacity in which, if the amendment is made, the party will sue is one in which at the date of issue of the writ or the making of the counterclaim, as the case may be, he might have sued.

(5) The Court may allow an amendment under paragraph (2) even if the effect of the amendment will be to add or substitute a new cause of action if the new cause of action arises out of the same or substantially the same facts as a cause of action in respect of which relief has already been claimed in the action by the party applying for leave to amend.

Amendment of originating summons

423. Rule 422 has effect in relation to an originating summons as it has effect in relation to a writ.

Amendment of certain other documents

424.—(1) The Court may, at any stage of the proceedings and either of its own motion or on the application of any party to the proceedings, order any document in the proceedings to be amended on such terms as to costs or otherwise as may be just and in such manner (if any) as it may direct, for the purpose of —

(*a*) determining the real question in controversy between the parties to any proceedings; or

(*b*) correcting any defect or error in any proceedings.

(2) This rule shall not have effect in relation to a judgment or an order.

Failure to amend after order

425.—(1) Where the Court makes an order under this Division giving any party leave

to amend a writ, pleading or other document, the order shall cease to have effect if the party does not amend the document in accordance with the order —

(*a*) before the expiration of the period specified for that purpose in the order; or

(*b*) if no period is so specified, before the expiration of a period of 14 days after the order was made.

(2) Despite paragraph (1), the Court may extend the period referred to in that paragraph.

Mode of amendment of writ, etc.

426.—(1) Where the amendments authorised under any rule of this Division to be made in a writ, pleading or other document are so numerous or of such a nature or length that to make written alterations of the document so as to give effect to them would make it difficult or inconvenient to read, a fresh document, amended as so authorised must —

(*a*) be prepared; and

(*b*) in the case of a writ or originating summons, be reissued.

(2) Subject to paragraph (1) and any direction given under rule 422 or 424, the amendments so authorised may be effected —

(*a*) by making in writing the necessary alterations of the document; and

(*b*) in the case of a writ or originating summons, by resealing and filing a copy of the writ or originating summons.

(3) A writ, pleading or other document which has been amended under this Division must be endorsed with a statement that it has been amended, specifying —

(*a*) the date on which it was amended;

(*b*) by whom the order (if any) authorising the amendment was made; and

(*c*) the date of the order referred to in sub-paragraph (*b*), or, if no such order was made, the number of the rule of this Division pursuant to which the amendment was made.

Amendment of judgment and orders

427. The Court may at any time, by summons without an appeal, correct —

(*a*) clerical mistakes in a judgment or an order; or

(*b*) errors arising in a judgment or an order from any accidental slip or omission.

Amendment of pleadings by agreement

428.—(1) Despite any provisions of this Division, any pleading in any cause or matter may, by written agreement between the parties, be amended at any stage of the proceedings.

(2) This rule shall not have effect in relation to an amendment to a counterclaim which consists of the addition, omission or substitution of a party.

Division 15 — Withdrawal and discontinuance

Withdrawal of appearance

429. A party who has entered an appearance in an action may withdraw the appearance at any time with the leave of the Court.

Discontinuance of action, etc., without leave

430.—(1) The plaintiff in an action begun by writ may, without the leave of the Court, discontinue the action, or withdraw any particular claim made by him in the action, as against all or any of the defendants —

(*a*) at any time not later than 14 days after service of the defence on that plaintiff; or

(*b*) if there are 2 or more defendants, at any time not later than 14 days after service of the defence last served on the plaintiff.

(2) The plaintiff may, under paragraph (1), discontinue the action or withdraw any particular claim by serving a notice in Form 90 to that effect on the defendant concerned.

(3) A defendant may, without the leave of the Court —

(*a*) withdraw his defence or any part of it at any time; or

(*b*) discontinue a counterclaim, or withdraw any particular claim made by him in the counterclaim, as against all or any of the parties against whom it is made —

(i) at any time not later than 14 days after service on that defendant of a defence to counterclaim; or

(ii) if the counterclaim is made against 2 or more parties, at any time not later than 14 days after service of the defence to counterclaim last served on that defendant.

(4) A defendant may, under paragraph (3), withdraw his defence or part of it, discontinue a counterclaim, or withdraw any particular claim made by him in a counterclaim, by serving a notice in Form 90 to that effect on the plaintiff or other party concerned.

(5) Where there are 2 or more defendants to an action not all of whom serve a defence on the plaintiff, and the period fixed under these Rules for service by any of those defendants of his defence expires after the latest date on which any other defendant serves his defence, paragraph (1) is to have effect as if the reference in that paragraph to the service of the defence last served were a reference to the expiration of that period.

(6) Paragraph (5) applies to a counterclaim as it applies to an action with the substitution of references to a defence, to the plaintiff and to paragraph (1), with references to a defence to counterclaim, to the defendant and to paragraph (3) respectively.

(7) An action may be withdrawn without the leave of the Court at any time before trial if —

(*a*) all the parties to the action consent in writing; and

(*b*) the written consent, signed by all the parties, is produced to the Registrar.

(8) An action begun by writ is deemed to have been discontinued against a defendant if the memorandum of service referred to in rule 306(4) is not filed in respect of the service of the writ on that defendant within 12 months after the validity of the writ for the purpose of service has expired, and, within that time —

(*a*) that defendant has not filed a memorandum of appearance in the action; and

(*b*) judgment has not been obtained in the action against that defendant for the whole or any part of the relief claimed against that defendant.

(9) Subject to paragraph (10), if no party to an action or a cause or matter has, for more than one year (or such extended period as the Court may allow under paragraph (11)), taken any step or proceeding in the action, cause or matter that appears from records maintained by the Court, the action, cause or matter is deemed to have been discontinued.

(10) Paragraph (9) does not apply where the action, cause or matter has been stayed pursuant to an order of the Court.

(11) The Court may, on an application by any party made before the one year referred to in paragraph (9) has elapsed, extend the time for such period as it thinks fit.

(12) Where an action, a cause or a matter has been discontinued under paragraph (8) or (9), the Court may, on application, reinstate the action, cause or matter, and allow it to proceed on such terms as it thinks just.

Discontinuance of action, etc., with leave

431.—(1) Except as provided by rule 430, a party may not discontinue an action (whether begun by writ or otherwise) or counterclaim, or withdraw any particular claim made by him in the action or counterclaim, without the leave of the Court.

(2) An application for the grant of leave under this rule may be made by summons.

(3) The Court hearing an application for the grant of such leave may order the action or counterclaim to be discontinued, or any particular claim made in the action or counterclaim to be struck out, as against all or any of the parties against whom it is brought or made.

(4) The Court may make an order under paragraph (3) on such terms as to costs, the bringing of a subsequent action or otherwise as it thinks just.

Effect of discontinuance

432. Subject to any terms imposed by the Court in granting leave under rule 431, the fact that a party has discontinued or is deemed to have discontinued an action or counterclaim or withdrawn a particular claim made by him in the action or counterclaim shall not be a defence to a subsequent action for the same, or substantially the same, cause of action.

Stay of subsequent action until costs paid

433.—(1) Where a party has discontinued or is deemed to have discontinued an action or counterclaim or withdrawn any particular claim made by him in the action or counterclaim and he is liable to pay any other party's costs of the action or counterclaim or the costs occasioned to any other party by the claim withdrawn, then, if before payment of those costs, he subsequently brings an action for the same, or substantially the same, cause of action, the Court may order the proceedings in that action to be stayed until those costs are paid.

(2) An application for an order under this rule may be made by summons or by summons for directions under rule 486.

Withdrawal of summons

434. A party who has taken out a summons in a cause or matter may not withdraw it without the leave of the Court.

Division 16 — Payment into and out of Court

Payment into Court

435.—(1) In any action for a debt or damages any defendant may at any time after he has entered an appearance in the action pay into Court —

(*a*) a sum of money in satisfaction of the cause of action in respect of which the plaintiff claims; or

(*b*) where 2 or more causes of action are joined in the action, a sum or sums of money in satisfaction of all or any of those causes of action.

(2) On making any payment into Court under this rule, and on increasing any such payment already made, the defendant must give notice of such payment in Form 91 to the plaintiff and every other defendant (if any).

(3) The plaintiff must, within 3 days after receiving the notice in paragraph (2), send the defendant a written acknowledgment of its receipt.

(4) A defendant may, without leave, give notice of an increase in a payment made under this rule.

(5) Subject to paragraph (4) and without prejudice to paragraph (7), a notice of payment may not be withdrawn or amended without the leave of the Court and the Court may grant leave on such terms as may be just.

(6) Where 2 or more causes of action are joined in the action and money is paid into Court under this rule in respect of all, or some only of, those causes of action, the notice of payment —

(*a*) must state that the money is paid in respect of all those causes of action or, as the case may be, must specify the cause or causes of action in respect of which the payment is made; and

(*b*) where the defendant makes separate payments in respect of each, or any 2

or more, of those causes of action, must specify the sum paid in respect of that cause or, as the case may be, those causes of action.

(7) Where a single sum of money is paid into Court under this rule in respect of 2 or more causes of action, then, if it appears to the Court that the plaintiff is embarrassed by the payment, the Court may, subject to paragraph (8), order the defendant to amend the notice of payment to specify the sum paid in respect of each cause of action.

(8) Where a cause of action under section 10 of the Civil Law Act (Cap. 43) and a cause of action under section 20 of that Act are joined in an action, with or without any other cause of action, the causes of action under those sections shall, for the purpose of paragraph (7), be treated as one cause of action.

(9) For the purposes of this rule, the plaintiff's cause of action in respect of a debt or damages is to be construed as a cause of action in respect, also, of such interest as might be included in the judgment, if judgment were given at the date of the payment into Court.

Payment in by defendant who has counterclaimed

436. Where a defendant, who makes by counterclaim a claim against the plaintiff for a debt or damages, pays a sum of money into Court under rule 435, the notice of payment must state, if it be the case, that in making the payment the defendant has taken into account and intends to satisfy —

(*a*) the cause of action in respect of which he claims; or

(*b*) where 2 or more causes of action are joined in the counterclaim, all those causes of action or, if not all, which of them.

Acceptance of money paid into Court

437.—(1) Where money is paid into Court under rule 435, then subject to paragraph (3), within 14 days after receipt of the notice of payment or, where more than one payment has been made or the notice has been amended, within 14 days after receipt of the notice of the last payment or the amended notice but, in any case, before the trial or hearing of the action begins, the plaintiff may —

(*a*) where the money was paid in respect of the cause of action or all the causes of action in respect of which he claims, accept the money in satisfaction of that cause of action or those causes of action, as the case may be; or

(*b*) where the money was paid in respect of some only of the causes of action in respect of which he claims, accept in satisfaction of any such cause or

causes of action the sum specified in respect of that cause or those causes of action in the notice of payment.

(2) The plaintiff may accept the money in accordance with paragraph (1)(*a*) or (*b*) by giving notice in Form 92 to every defendant to the action.

(3) Where after the trial or hearing of an action has begun, money is paid into Court under rule 435 or money in Court is increased by a further payment into Court under that rule, the plaintiff may accept the money in accordance with paragraphs (1) and (2) —

(*a*) before the Judge begins to deliver judgment; and

(*b*) subject to sub-paragraph (*a*), within 2 days after receipt of the notice of payment or notice of the further payment, as the case may be.

(4) Rule 435(7) does not apply in relation to money paid into Court in an action after the trial or hearing of the action has begun.

(5) On the plaintiff accepting any money paid into Court, all further proceedings in the action or in respect of the specified cause or causes of action, as the case may be, to which the acceptance relates, shall be stayed —

(*a*) against the defendant making the payment; and

(*b*) against any other defendant sued jointly with or in the alternative to the defendant referred to in sub-paragraph (*a*).

(6) Where money is paid into Court by a defendant who made a counterclaim and the notice of payment stated, relating to any sum so paid, that in making the payment the defendant had taken into account and satisfied the cause or causes of action, or the specified cause or causes of action in respect of which he claimed, then, on the plaintiff accepting that sum, all further proceedings on the counterclaim or in respect of the specified cause or causes of action, as the case may be, against the plaintiff shall be stayed.

(7) A plaintiff who has accepted any sum paid into Court shall, subject to rules 438, 444 and 666, be entitled to receive payment of that sum in satisfaction of the cause or causes of action to which the acceptance relates.

Order for payment out of money accepted required in certain cases

438.—(1) Where a plaintiff accepts any sum paid into Court and that sum was paid into Court —

(*a*) by some but not all of the defendants sued jointly or in the alternative by him;

(*b*) with a defence of tender before action; or

(*c*) in satisfaction either of causes of action arising under sections 10 and 20 of the Civil Law Act (Cap. 43) or of a cause of action arising under section 20 of that Act where more than one person is entitled to the money,

the money in Court must not be paid out except under paragraph (3) or pursuant to an order of the Court.

(2) The order of the Court referred to in paragraph (1) shall deal with the whole costs of the action or of the cause of action to which the payment relates, as the case may be.

(3) Where an order of the Court is required under paragraph (1) by reason only of paragraph (1)(*a*), the sum paid into Court by some only of the defendants sued jointly or in the alternative by the plaintiff may be paid out without an order of the Court, if either before or after accepting the sum paid into Court —

(*a*) the plaintiff discontinues the action against all other defendants; and

(*b*) those defendants who paid the sum into Court consent in writing to the payment out of that sum.

(4) Despite paragraph (3), where —

(*a*) a plaintiff accepts any money paid into Court after the trial or hearing of an action has begun; and

(*b*) all further proceedings in the action or in respect of the specified cause or causes of action, as the case may be, to which the acceptance relates are stayed by virtue of rule 437(5),

the money must not be paid out except pursuant to an order of the Court.

(5) The order of the Court referred to in paragraph (4) shall deal with the whole costs of the action.

Money remaining in Court

439.—(1) If any money paid into Court in an action is not accepted in accordance with rule 437, the money remaining in Court must not be paid out except pursuant to an order of the Court.

(2) The order referred to in paragraph (1) may be made at any time before, at or after the trial or hearing of the action.

(3) Where the order is made before the trial or hearing, the money must not be paid out except in satisfaction of the cause or causes of action in respect of which the money

was paid in.

Counterclaim

440. A plaintiff against whom a counterclaim is made and any other defendant to the counterclaim may pay money into Court in accordance with rule 435, and that rule and rules 437 (except paragraph (6)), 438 and 439 will apply accordingly with the necessary modifications.

Non-disclosure of payment into Court

441.—(1) The fact that money has been paid into Court under rules 435 to 440 —

(*a*) must not be pleaded; and

(*b*) must not be communicated to the Court, at the trial or hearing of the action or counterclaim or of any question or issue as to the debt or damages, until all questions of liability and of the amount of debt or damages have been decided.

(2) Paragraph (1) does not apply to an action —

(*a*) to which a defence of tender before action is pleaded; or

(*b*) in which all further proceedings are stayed by virtue of rule 437(5) after the trial or hearing has begun.

Money paid into Court under order of Court

442.—(1) Subject to paragraph (2), money paid into Court under an order of the Court or a certificate of the Registrar must not be paid out except pursuant to an order of the Court.

(2) Unless the Court otherwise orders, a party who has paid money into Court pursuant to an order made under Division 8 of this Part —

(*a*) may by notice to the other party appropriate the whole or any part of the money and any additional payment, if necessary, to any particular claim made in the writ or counterclaim, as the case may be, and specified in the notice; or

(*b*) if he pleads a tender, may by his pleading appropriate the whole or any part of the money as payment into Court of the money alleged to have been tendered.

(3) The money appropriated in accordance with this rule shall be deemed to be money

paid into Court in accordance with rule 435 or money paid into Court with a plea of tender, as the case may be, and this Division will apply accordingly.

Payment out of money paid into Court under Exchange Control Act

443.—(1) Where money has been paid into Court in any cause or matter pursuant to the Exchange Control Act (Cap. 99), or an order of the Court made under that Act, any party to the cause or matter may apply for payment out of Court of that money.

(2) An application for an order under this rule must be made by summons which must be served on all parties interested.

(3) If any person in whose favour an order for payment under this rule is sought is resident outside the scheduled territories or will receive payment by order or on behalf of a person so resident, that fact must be stated in the summons.

(4) If the permission of the Monetary Authority of Singapore authorising the proposed payment has been given unconditionally or on conditions which have been complied with, that fact must be stated in the summons and the permission must be attached to the summons.

Person to whom payment to be made

444.—(1) Where the party entitled to money in Court is a person in respect of whom a certificate is or has been in force entitling him to legal aid under the Legal Aid and Advice Act (Cap. 160), payment must be made —

(*a*) to that party's solicitor; or

(*b*) if that party is not represented by a solicitor, to the Director of Legal Aid if the Court so orders.

(2) The payment in paragraph (1) may be made without the need for any authority from the party referred to in that paragraph.

(3) Subject to paragraph (1), payment must be made —

(*a*) to the party entitled;

(*b*) on the party's written authority, to his solicitor; or

(*c*) if the Court so orders, to the party's solicitor without such authority.

(4) This rule applies whether the money in Court has been paid into Court under rule 435 or under the order of the Court or a certificate of the Registrar.

Payment out: Small intestate estates

445.—(1) Where a person entitled to a fund in Court, or a share of that fund, dies intestate, the Court may make an order referred to in paragraph (2), if the Court is satisfied that —

(*a*) no grant of administration of the deceased's estate has been made; and

(*b*) the assets of the deceased's estate including the value of the fund or share do not exceed $50,000 in value.

(2) For the purposes of paragraph (1), the Court may order that the fund or share shall be paid, transferred or delivered to the person who, being a widower, widow, child, father, mother, brother or sister of the deceased, would have the prior right to a grant of administration of the estate of the deceased.

Division 17 — Offer to settle

Offer to settle

446.—(1) A party to any proceedings may serve on any other party an offer to settle any one or more of the claims in the proceedings on the terms specified in the offer to settle.

(2) The offer to settle must be in Form 93.

Time for making offer to settle

447. An offer to settle may be made at any time before the Court disposes of the matter in respect of which it is made.

Time for acceptance and withdrawal

448.—(1) An offer to settle must be open for acceptance for a period of not less than 14 days after it is served.

(2) If an offer to settle is made less than 14 days before the hearing of the matter, it must remain open for a period of not less than 14 days unless, in the meanwhile, the matter is disposed of.

(3) Subject to paragraphs (1) and (2), an offer to settle which is expressed to be limited as to the time within which it is open for acceptance must not be withdrawn within that time without the leave of the Court.

(4) An offer to settle which does not specify a time for acceptance may be withdrawn at any time after the expiry of 14 days from the date of service of the offer on the other party provided that at least one day's prior notice of the intention to withdraw the offer is given.

(5) The notice of withdrawal of the offer must be in Form 94.

(6) Where an offer to settle specifies a time within which it may be accepted and it is not accepted or withdrawn within that time, it shall be deemed to have been withdrawn when the time expires.

(7) Where an offer to settle does not specify a time for acceptance, it may be accepted at any time before the Court disposes of the matter in respect of which it is made.

Without prejudice rule

449. An offer to settle shall be deemed to be an offer of compromise made without prejudice save as to costs.

Non-disclosure

450.—(1) An offer to settle must not be filed and no statement of the fact that such an offer has been made shall be contained in any pleading or affidavit.

(2) Where an offer to settle is not accepted, no communication respecting the offer shall be made to the Court at the hearing of the proceeding until all questions of liability and the relief to be granted, other than costs, have been determined.

Manner of acceptance

451.—(1) An offer to settle shall be accepted by serving an acceptance of offer in Form 95 on the party who made the offer.

(2) Where a party to whom an offer to settle is made rejects the offer or responds with a counter-offer that is not accepted, the party may thereafter accept the original offer to settle, unless it has been withdrawn or the Court has disposed of the matter in respect of which it was made.

(3) Where an offer is accepted, the Court may incorporate any of its terms into a judgment.

Party under disability

452.—(1) A party under disability may make, withdraw and accept an offer to settle.

(2) Despite paragraph (1), no acceptance of an offer made by a party under disability and no acceptance by him of an offer made by another party is binding on the party under disability until the settlement has been approved as provided in rule 664.

Compliance with accepted offer to settle

453.—(1) Where a party to an accepted offer to settle fails to comply with any of the terms of the accepted offer, the other party may —

(*a*) make an application to a Judge for judgment in the terms of the accepted offer, and the Judge may grant judgment accordingly; or

(*b*) continue the proceeding as if there had been no accepted offer to settle.

(2) Where the offer to settle involves the payment of money by instalments, the accepted offer to settle shall, unless the parties otherwise provide, be deemed to include a term that all instalments outstanding shall be immediately payable upon the failure to comply with the payment of any instalment.

Costs

454.—(1) The plaintiff who makes an offer to settle is entitled, unless the Court otherwise orders, to the costs in paragraph (2), where —

(*a*) the offer is not withdrawn and has not expired before the disposal of the claim in respect of which the offer is made;

(*b*) the offer is not accepted by the defendant; and

(*c*) the plaintiff obtains a judgment not less favourable than the terms of the offer.

(2) For the purposes of paragraph (1), the plaintiff is entitled to costs on the standard basis to the date the offer to settle was served and costs on the indemnity basis from that date.

(3) Where an accepted offer to settle does not provide for costs —

(*a*) where the offer was made by the plaintiff, he will be entitled to his costs assessed to the date that the notice of acceptance was served; and

(*b*) where the offer was made by the defendant —

(i) the plaintiff will be entitled to his costs assessed to the date he was served with the offer; and

(ii) the defendant will be entitled to his costs from the date 14 days after the date of the service of the offer assessed up to the date that the notice of acceptance was served.

(4) Where an offer to settle is made by a defendant, the plaintiff is entitled, unless the Court otherwise orders, to the costs in paragraph (5), where —

(*a*) the offer is not withdrawn and has not expired before the disposal of the claim in respect of which the offer is made;

(*b*) the offer is not accepted by the plaintiff; and

(*c*) the plaintiff obtains judgment not more favourable than the terms of the offer to settle.

(5) For the purposes of paragraph (4), the plaintiff is entitled to costs on the standard basis to the date the offer was served and the defendant is entitled to costs on the indemnity basis from that date.

(6) In determining whether the plaintiff's judgment is more favourable than the terms of the offer to settle —

(*a*) any interest awarded in respect of the period before service of the offer is to be considered by the Court; and

(*b*) any interest awarded in respect of the period after service of the offer is not to be considered by the Court.

(7) Without prejudice to paragraphs (1), (2), (3), (4) and (5), where an offer to settle has been made, and despite anything in the offer to settle, the Court has full power to determine by whom and to what extent any costs are to be paid.

(8) The Court may make a determination under paragraph (7) upon the application of a party or of its own motion.

Joint and several liability

455.—(1) Where there are 2 or more defendants, the plaintiff may offer to settle with any defendant and any defendant may offer to settle with the plaintiff.

(2) Where the defendants are alleged to be jointly or jointly and severally liable to the plaintiff in respect of a claim and rights of contribution or indemnity may exist between the defendants, the cost consequences prescribed by rule 454 do not apply to an offer to settle unless —

(*a*) in the case of an offer made by the plaintiff, the offer is made to all the defendants, and is an offer to settle the claim against all the defendants; or

(*b*) in the case of an offer made to the plaintiff —

(i) the offer is an offer to settle the plaintiff's claim against all the defendants and to pay the costs of any defendant who does not join in making the offer; or

(ii) the offer is made by all the defendants and is an offer to settle the claim against all the defendants, and, by the terms of the offer, they are made jointly and severally liable to the plaintiff for the whole of the offer.

Offer to contribute

456.—(1) Where 2 or more defendants are alleged to be jointly or jointly and severally liable to the plaintiff in respect of a claim, any defendant may make to any other defendant an offer to contribute towards a settlement of the claim.

(2) An offer to contribute must be made in Form 96.

(3) The Court may take into account an offer to contribute in determining whether another defendant should be ordered —

(*a*) to pay the costs of the defendant who made the offer;

(*b*) to indemnify the defendant who made the offer for any costs he is liable to pay to the plaintiff; or

(*c*) to do both matters in sub-paragraphs (*a*) and (*b*).

(4) Rules 447 to 457 apply to an offer to contribute as if it were an offer to settle.

Discretion of Court

457. Without prejudice to rules 454 and 455, the Court may, in exercising its discretion with respect to costs, take into account the following matters:

(*a*) any offer to settle;

(*b*) the date the offer was made;

(*c*) the terms of the offer;

(*d*) the extent to which the plaintiff's judgment is more favourable than the

terms of the offer.

Counterclaims and third party claims

458. Rules 446 to 457 apply, with the necessary modifications, to counterclaims and third party claims.

Division 18 — Security for costs

Security for costs of action, etc.

459.—(1) Where, on the application of a defendant to an action or other proceeding in the Court, it appears to the Court —

(*a*) that the plaintiff is ordinarily resident out of the jurisdiction;

(*b*) that the plaintiff (not being a plaintiff who is suing in a representative capacity) is a nominal plaintiff who is suing for the benefit of some other person and that there is reason to believe that the plaintiff will be unable to pay the costs of the defendant if ordered to do so;

(*c*) subject to paragraph (2), that the plaintiff's address is not stated in the writ or other originating process or is incorrectly stated in the writ or other originating process; or

(*d*) that the plaintiff has changed his address during the course of the proceedings with a view to evading the consequences of the litigation,

then, if, having regard to all the circumstances of the case, the Court thinks it just to do so, it may order the plaintiff to give such security for the defendant's costs of the action or other proceeding as it thinks just.

(2) The Court shall not require a plaintiff to give security by reason only of paragraph (1)(*c*) if he satisfies the Court that the failure to state his address or the mis-statement of his address was made innocently and without intention to deceive.

(3) Where, on the application of a defendant to an action or other proceeding in the Court, it appears to the Court —

(*a*) that a party, who is not a party to the action or proceeding (called in this rule a non-party), has assigned the right to the claim to the plaintiff with a view to avoiding his liability for costs; or

(*b*) that the non-party has contributed or agreed to contribute to the plaintiff's

costs in return for a share of any money or property which the plaintiff may recover in the action or proceeding,

and the non-party is a person against whom a costs order may be made, then, if, having regard to all the circumstances of the case, the Court thinks it just to do so, it may order the non-party to give such security for the defendant's costs of the action or other proceeding as the Court thinks just.

(4) An application for an order under paragraph (3) must be made by summons, which must be served on the non-party personally and on every party to the proceedings.

(5) A copy of the supporting affidavit must be served with the summons on every person on whom the summons is required to be served.

(6) The references in paragraphs (1), (2) and (3) to a plaintiff and a defendant are to be construed as references to the person (howsoever described on the record) who is in the position of plaintiff or defendant, as the case may be, in the proceeding in question, including a proceeding on a counterclaim.

Manner of giving security

460. Where an order is made requiring any party to give security for costs, the security must be given in such manner, at such time, and on such terms (if any), as the Court may direct.

Saving for written law

461. This Division is without prejudice to the provisions of any written law which empowers the Court to require security to be given for the costs of any proceedings.

Division 19 — Discovery and inspection of documents

Order for discovery

462.—(1) Subject to this rule and rules 463 and 468, the Court may at any time order any party to a cause or matter (whether begun by writ, originating summons or otherwise) to give discovery by making and serving on any other party a list of the documents which are or have been in his possession, custody or power.

(2) In making an order under paragraph (1), the Court may at the same time or subsequently also order that party to make and file an affidavit verifying such list and to serve a copy of the affidavit on the other party.

(3) The documents which a party to a cause or matter may be ordered to discover under paragraph (1) are as follows:

(*a*) the documents on which the party relies or will rely; and

(*b*) the documents which could —

(i) adversely affect his own case;

(ii) adversely affect another party's case; or

(iii) support another party's case.

(4) An order under this rule may be limited to such documents or classes of documents only, or to only such of the matters in question in the cause or matter, as may be specified in the order.

Order for determination of issue, etc., before discovery

463.—(1) Where on an application for an order under rule 462 it appears to the Court that any issue or question in the cause or matter should be determined before any discovery of documents is made by the parties, the Court may order that that issue or question be determined first.

(2) Where in an action begun by writ an order is made under this rule for the determination of an issue or a question, rules 481 to 486 will, with the omission of so much of rule 486(1) as requires parties to serve a notice specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application on which the order was made were a summons for directions.

Form of list and affidavit

464.—(1) A list of documents made in compliance with an order under rule 462 —

(*a*) must be in Form 97; and

(*b*) must enumerate the documents in a convenient order and as shortly as possible but describing each of them or, in the case of bundles of documents of the same nature, each bundle, sufficiently to enable it to be identified.

(2) A party who intends to claim that any document is privileged from production must make the claim in the list of documents with a sufficient statement of the grounds of the privilege.

(3) An affidavit made under rule 462(2) verifying a list of documents must be in

Form 98.

Defendant entitled to copy of co-defendant's list

465.—(1) A defendant who has pleaded in an action is entitled to have a copy of any list of documents served under rules 462, 463 and 464 on the plaintiff by any other defendant to the action.

(2) A plaintiff against whom a counterclaim is made in an action begun by writ is entitled to have a copy of any list of documents served under rules 462, 463 and 464 on the party making the counterclaim by any other defendant to the counterclaim.

(3) A party required under paragraph (1) or (2) to supply a copy of a list of documents must supply it free of charge on a request made by the party entitled to it.

(4) Where in an action begun by originating summons the Court makes an order under rule 462 requiring a defendant to the action to serve a list of documents on the plaintiff, it may also order the defendant to supply any other defendant to the action with a copy of that list.

(5) In this rule, "list of documents" includes an affidavit verifying a list of documents.

Order for discovery of particular documents

466.—(1) Subject to rule 468, the Court may at any time, on the application of any party to a cause or matter, make an order requiring any other party to make an affidavit stating —

(*a*) whether any document or class of document specified or described in the application is, or has at any time been, in the other party's possession, custody or power; and

(*b*) if that document or class of document is not then in the other party's possession, custody or power, when he parted with it and what has become of it.

(2) An order may be made against a party under this rule even if the party may already have made or been required to make a list of documents or an affidavit under rule 462.

(3) An application for an order under this rule must be supported by an affidavit stating the belief of the deponent that the party from whom discovery is sought under this rule has, or at some time had, in his possession, custody or power, the document, or class of document, specified or described in the application and that it falls within one of the following descriptions:

(*a*) a document on which the party relies or will rely;

(*b*) a document which could —

(i) adversely affect his own case;

(ii) adversely affect another party's case; or

(iii) support another party's case;

(*c*) a document which may lead the party seeking discovery of it to a train of inquiry resulting in his obtaining information which may —

(i) adversely affect his own case;

(ii) adversely affect another party's case; or

(iii) support another party's case.

(4) An order under this rule shall not be made in any cause or matter in respect of any party before an order under rule 462 has first been obtained in respect of that party, unless, in the opinion of the Court, the order is necessary or desirable.

Discovery against other person

467.—(1) Where an application is made before the commencement of proceedings for an order for the discovery of documents —

(*a*) the application must be made by originating summons; and

(*b*) the person against whom the order is sought must be made defendant to the originating summons.

(2) Where an application is made after the commencement of proceedings for an order for the discovery of documents by a person who is not a party to the proceedings, the application must —

(*a*) be made by summons; and

(*b*) be served on that person personally and on every party to the proceedings.

(3) An originating summons under paragraph (1) or a summons under paragraph (2) must be supported by an affidavit which must —

(*a*) in the case of an originating summons under paragraph (1), state —

(i) the grounds for the application;

(ii) the material facts pertaining to the intended proceedings; and

(iii) whether the person against whom the order is sought is likely to be party to subsequent proceedings in Court; and

(*b*) in any case —

(i) specify or describe the documents in respect of which the order is sought; and

(ii) show, if practicable by reference to any pleading served or intended to be served in the proceedings, that the documents are relevant to an issue arising or likely to arise out of the claim made or likely to be made in the proceedings or the identity of the likely parties to the proceedings, or both, and that the person against whom the order is sought is likely to have or have had the documents in his possession, custody or power.

(4) A copy of the supporting affidavit must be served with the originating summons or summons on every person on whom the originating summons or summons is required to be served.

(5) The Court may make an order on an application under paragraph (1) or (2) —

(*a*) for the purpose of or with a view to identifying possible parties to any proceedings in such circumstances where the Court thinks it just to make such an order; and

(*b*) on such terms as the Court thinks just.

(6) An order for the discovery of documents may —

(*a*) be made conditional on the applicant's giving security for the costs of the person against whom it is made or on such other terms, if any, as the Court thinks just; and

(*b*) require the person against whom the order is made to make an affidavit stating whether the documents specified or described in the order are, or at any time have been, in his possession, custody or power and, if not then in his possession, custody or power, when he parted with them and what has become of them.

(7) No person shall be compelled by virtue of such an order to produce any document which he could not be compelled to produce —

(*a*) in the case of an originating summons under paragraph (1), if the subsequent proceedings had already been commenced; and

(*b*) in the case of a summons under paragraph (2), if he had been served with a subpoena to produce documents[1] at the trial.

(8) For the purpose of rules 471 and 472, an application for an order under this rule is to be treated as a cause or matter between the applicant and the person against whom the order is sought.

(9) Unless the Court otherwise orders, where an application is made in accordance with this rule for an order, the person against whom the order is sought is entitled to his costs of the application, and of complying with any order made thereon on an indemnity basis.

Discovery to be ordered only if necessary

468. On the hearing of an application for an order under rule 462, 466 or 467, the Court —

(*a*) may, if satisfied that discovery is not necessary, or not necessary at that stage of the cause or matter, dismiss or, as the case may be, adjourn the application; and

(*b*) shall in any case refuse to make such an order if and so far as it is of the opinion that discovery is not necessary either for disposing fairly of the cause or matter or for saving costs.

Duty to discover continues throughout proceedings

469. After the making of any order under rule 462 or 466, the party required to give discovery under any such order shall remain under a duty to continue to give discovery of all documents falling within the ambit of such order until the proceedings in which the order was made are concluded.

Inspection of documents referred to in list

470.—(1) A party who has served a list of documents on any other party in compliance with an order under rule 462 must allow the other party to inspect the documents referred to in the list (other than any document which the party objects to produce) and to take copies of the documents.

(2) A party who serves the list of documents on the other party must at the same time serve on that other party a notice in Form 99 stating a time within 7 days after the service

of the notice at which the documents may be inspected at a place specified in the notice.

Inspection of documents referred to in pleadings and affidavits

471.—(1) Any party to a cause or matter is entitled at any time to serve a notice in Form 100 on any other party in whose pleadings or affidavits reference is made to any document —

(*a*) to require that other party to produce that document for the inspection of the party giving the notice; and

(*b*) to permit the party giving the notice to take copies of that document.

(2) The party on whom a notice is served under paragraph (1) must, within 4 days after service of the notice, serve on the party giving the notice a notice in Form 101.

(3) The notice in Form 101 must —

(*a*) state a time within 7 days after the service of that notice at which the documents, or such of them as the party on whom the notice is served does not object to produce, may be inspected at a place specified in the notice; and

(*b*) state which (if any) of the documents he objects to produce and on what grounds.

Order for production for inspection

472.—(1) If a party who is required by rule 470 to serve such notice mentioned in that rule or who is served with a notice under rule 471(1) —

(*a*) fails to serve a notice under rule 470 or 471(2), as the case may be;

(*b*) objects to produce any document for inspection; or

(*c*) offers inspection at a time or place such that, in the opinion of the Court, it is unreasonable to offer inspection then or there, as the case may be,

then, subject to rule 474(1), the Court may, on the application of the party entitled to inspection, make an order in Form 102 for the production of the documents in question for inspection at such time and place, and in such manner, as it thinks fit.

(2) Without prejudice to paragraph (1), but subject to rule 474(1), the Court may, on the application of any party to a cause or matter, order any other party to permit the party applying to inspect any documents in the possession, custody or power of that other party in respect of which discovery has been given under any rule in this Division or pursuant

to any order made under any such rule.

(3) An application for an order under paragraph (2) must be supported by an affidavit —

(*a*) specifying or describing the documents of which inspection is sought; and

(*b*) stating the belief of the deponent that the documents are in the possession, custody or power of the other party and that discovery has been given of those documents under any rule in this Division or pursuant to any order made under any such rule.

Order for production to Court

473.—(1) At any stage of the proceedings in any cause or matter the Court may, subject to rule 474(1), order any party to produce to the Court any document in his possession, custody or power that falls within one of the following descriptions:

(*a*) documents on which a party applying relies or will rely;

(*b*) documents which could —

(i) adversely affect a party's case; or

(ii) support a party's case;

(*c*) documents which may lead to a train of inquiry resulting in the obtaining of information which may —

(i) adversely affect a party's case; or

(ii) support a party's case.

(2) The Court may deal with the document when produced pursuant to an order made under paragraph (1) in such manner as it thinks fit.

Production to be ordered only if necessary, etc.

474.—(1) No order for the production of any documents for inspection or to the Court shall be made unless the Court is of the opinion that the order is necessary either for disposing fairly of the cause or matter or for saving costs.

(2) Where an application under this Division is made for the production of any document for inspection or to the Court, and privilege from such production is claimed or objection is made to such production on any other ground, the Court may inspect the document for the purpose of deciding whether the claim or objection is valid.

Production of business books

475.—(1) Where the production of any business books for inspection is applied for, the Court may, instead of ordering the production of the original books for inspection, order a copy of any entries in the business books to be supplied and verified by an affidavit of some person who has examined the copy with the original books.

(2) The affidavit referred to in paragraph (1) must state whether there are any erasures, interlineations or alterations in the original book and if so, what those erasures, interlineations or alterations are.

(3) Even if a copy of any entries in any book has been supplied under this rule, the Court may order production of the book from which the copy was made.

Document disclosure of which would be injurious to public interest

476. Rules 462 to 475 are without prejudice to any rule of law which authorises or requires the withholding of any document on the ground that the disclosure of it would be injurious to the public interest.

Failure to comply with requirement for discovery, etc.

477.—(1) If any party who is required by any rule in this Division, or by any order made under any such rule, to make discovery of documents or to produce any document for the purpose of inspection or any other purpose, fails to comply with any provision of the rules in this Division, or with any order made under those provisions, or both, as the case may be, then, in the case of a failure to comply with any such provision, the Court may make such order as it thinks just including, in particular, any of the following orders as may be applicable:

(*a*) an order that the action be dismissed;

(*b*) an order that the defence be struck out and judgment be entered accordingly.

(2) Paragraph (1) is without prejudice to the Court's power under rule 472(1).

(3) A party or person against whom an order for discovery or production of documents is made who fails to comply with such order shall, without prejudice to paragraph (1), be liable to committal.

(4) Service on a party's solicitor of an order for discovery or production of documents made against that party shall be sufficient service to found an application for committal of the party disobeying the order, but the party may show in answer to the application that he had no notice or knowledge of the order.

(5) A solicitor on whom such an order made against his client is served and who fails, without reasonable excuse, to give notice of the order to his client shall be liable to committal.

(6) A party who is required by any rule in this Division, or by any order made any such rule, to make discovery of documents or to produce any document for the purpose of inspection or any other purpose, but who fails to comply with any provision of that rule or with that order, as the case may be, may not rely on those documents save with the leave of the Court.

Revocation and variation of orders

478. Any order made under this Division (including an order made on appeal) may, on sufficient cause being shown, be revoked or varied by a subsequent order or direction of the Court made or given at or before the trial of the cause or matter in connection with which the original order was made.

Restriction on use of privileged document, inspection of which has been inadvertently allowed

479. Where a party inadvertently allows a privileged document to be inspected, the party who inspected the document may use it or its contents only with the leave of the Court.

Division 20 — Summons for directions

Summons for directions

480.—(1) In every action to which this rule applies, the plaintiff must, within one month after the pleadings in the action are deemed to be closed, take out a summons for directions in Form 103, returnable in not less than 14 days, with a view to providing an occasion for the consideration by the Court of the preparations for the trial of the action, so that —

(*a*) all matters which must or can be dealt with on interlocutory applications and have not already been dealt with may so far as possible be dealt with; and

(*b*) such directions may be given as to the future course of the action as appear best adapted to secure the just, expeditious and economical disposal of the action.

(2) This rule applies to an action begun by writ except —

(*a*) an action in which the plaintiff or defendant has applied for judgment under Division 8 of this Part;

(*b*) an action in which the plaintiff or defendant has applied under rule 408 for trial without pleadings or further pleadings and directions have been given under that rule;

(*c*) an action in which an order has been made under rule 463 for the trial of the issue or question before discovery;

(*d*) an action in which directions have been given under rule 522; and

(*e*) an action in which an order for the taking of an account has been made under rule 681.

(3) If the plaintiff does not take out a summons for directions in accordance with paragraphs (1) and (2), any defendant may do so or apply for an order to dismiss the action.

(4) On an application by a defendant to dismiss the action under paragraph (3), the Court may either dismiss the action on such terms as may be just or deal with the application as if it were a summons for directions.

(5) Where an action proceeds only on a counterclaim, references in this rule to the plaintiff and defendant are to be construed respectively as references to the party making the counterclaim and the defendant to the counterclaim.

Duty to consider all matters

481.—(1) When the summons for directions first comes to be heard, the Court shall consider whether —

(*a*) it is possible to deal then with all the matters which, by rules 482 to 486, are required to be considered on the hearing of the summons for directions; or

(*b*) it is expedient to adjourn the consideration of all or any of those matters until a later stage.

(2) Where on the first hearing of the summons for directions the Court considers that it is possible to deal then with all the matters referred to in paragraph (1)(*a*), the Court is to —

(*a*) deal with all those matters forthwith; and

(*b*) endeavour to secure that all other matters which must or can be dealt with

on interlocutory applications, and that have not already been dealt with, are also dealt with at that first hearing.

(3) When on the first hearing of the summons for directions the Court considers that it is expedient to adjourn the consideration of all or any of the matters which, by rules 482 to 486, are required to be considered on the hearing of the summons, the Court is to —

(*a*) deal forthwith with such of those matters as it considers can conveniently be dealt with forthwith;

(*b*) adjourn the consideration of the remaining matters; and

(*c*) endeavour to secure that all other matters which must or can be dealt with on interlocutory applications, and that have not already been dealt with, are dealt with either at that first hearing or at a resumed hearing of the summons for directions.

(4) If, on the summons for directions, an action is ordered to be transferred from the Family Division of the High Court to a Family Court, nothing in this Division is to be construed as requiring the Family Division of the High Court to make any further order on the summons.

(5) If, on the summons for directions, the action or any question or issue in the action is ordered to be tried before the Registrar, the Court may, without giving any further directions, adjourn the summons so that it can be heard by the Registrar.

(6) Where the Court adjourns the summons under paragraph (5), the party required to apply to the Registrar for directions may do so by taking out a fresh summons for directions.

(7) If the hearing of the summons for directions is adjourned without a day being fixed for the resumed hearing of the summons, any party may restore it to the list on 2 days' notice to the other parties.

Particular matters for consideration

482.—(1) On the hearing of the summons for directions, the Court shall consider the appropriate orders or directions that should be made to simplify and to expedite the proceedings and should consider in particular —

(*a*) the period within which the parties have to exchange affidavits of the evidence-in-chief of all witnesses named in the summons for directions who may give evidence at the trial;

(*b*) whether the number of witnesses shall be limited to those specified in the

order and whether the evidence-in-chief of the witnesses specified be each limited to a single affidavit;

(*c*) the mode in which the evidence-in-chief shall be given by any witness from whom a party is unable on sufficient cause being shown to obtain an affidavit of that witness's evidence-in-chief and the manner in which the said evidence shall be disclosed to the other parties prior to the trial;

(*d*) whether an order should be made limiting the number of expert witnesses;

(*e*) whether the evidence-in-chief of each expert witness should be set out in a single affidavit;

(*f*) whether any direction should be made for a discussion between the experts prior to the exchange of their affidavits exhibiting their reports for the purpose of requiring them to identify the issues in the proceedings and where possible, reach agreement on an issue, and if such a direction should be made, whether —

(i) to specify the issues which the experts are to discuss; and

(ii) to direct the experts to prepare a joint statement indicating the agreed issues, the issues not agreed and a summary of the reasons for any non-agreement;

(*g*) the period within which objections to the contents of the affidavit or other evidence of a witness must be taken; and

(*h*) whether any orders should be made pursuant to rules 422, 590 to 594, and 636 to 639.

(2) Where any party fails to comply with the Court's directions for the filing and exchange of affidavits, an application may be made by summons, at any time after the default for —

(*a*) an order to enter judgment or to dismiss the action, as the case may be; or

(*b*) such other order as to costs or otherwise that the Court thinks just in the circumstances.

(3) Within 7 days after the parties have exchanged affidavits of the evidence-in-chief of all witnesses named in the summons for directions who may give evidence at the trial, the plaintiff must file a certificate in Form 104, signed by all parties to the action or their solicitors, to the effect that all affidavits of the evidence-in-chief of witnesses ordered or required to be exchanged pursuant to this Division have been so exchanged.

Admissions and agreements to be made

483. At the hearing of the summons for directions, the Court —

(*a*) must endeavour to secure that the parties make all admissions and all agreements as to the conduct of the proceedings which ought reasonably to be made by them; and

(*b*) may cause the order on the summons to record any admissions or agreements so made, and (with a view to such special order, if any, as to costs as may be just being made at the trial) any refusal to make any admission or agreement.

Limitation of right of appeal

484.—(1) Nothing in rule 483 is to be construed as requiring the Court to endeavour to secure that the parties shall agree to exclude or limit any right of appeal.

(2) However the order made on the summons for directions may record any such agreement referred to in paragraph (1).

Duty to give all information at hearing

485.—(1) Subject to paragraph (5), no affidavit shall be used on the hearing of the summons for directions except with the leave or by the direction of the Court.

(2) The parties to the action and their solicitors must give all such information and produce all such documents on any hearing of the summons for directions as the Court may reasonably require for it to properly to deal with the summons.

(3) The Court may, if it appears proper to do so in the circumstances, authorise any such information or documents to be given or produced to the Court without being disclosed to the other parties.

(4) In the absence of the Court's authority under paragraph (3), any information or document given or produced under that paragraph must be given or produced to all the parties present or represented on the hearing of the summons and to the Court.

(5) Leave of the Court under paragraph (1) is not required for the use of an affidavit by any party on the hearing of the summons for directions in connection with any application at that hearing for any order if, under any of these Rules, an application for such an order is required to be supported by an affidavit.

(6) If the Court on any hearing of the summons for directions requires a party to the action or his solicitor or counsel to give any information or produce any document and

that information or document is not given or produced, the Court may, subject to paragraph (7) —

(*a*) cause the facts to be recorded in the order with a view to such special order, if any, as to costs as may be just being made at the trial; or

(*b*) if it appears to the Court to be just to do so, order the whole or any part of the pleadings of the party concerned to be struck out, or, if the party is the plaintiff or the claimant under a counterclaim, order the action or counterclaim to be dismissed on such terms as may be just.

(7) Despite anything in paragraphs (1) to (6), no information or documents which are privileged from disclosure shall be required to be given or produced under this rule by any party or by the solicitors of any party, except with the consent of that party.

Duty to make all interlocutory applications on summons for directions

486.—(1) Any party to whom the summons for directions is addressed must —

(*a*) so far as practicable, apply at the hearing of the summons for any order or directions which he may desire as to any matter capable of being dealt with on an interlocutory application in the action; and

(*b*) not less than 7 days before the hearing of the summons, serve on the other parties a summons for directions specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons.

(2) Where the hearing of the summons for directions is adjourned, any party to the proceedings who desires to apply at the resumed hearing for any order or directions not asked for by the summons must, not less than 7 days before the resumed hearing, serve on the other parties a summons for directions specifying those orders and directions.

Division 21 — Interrogatories

Discovery by interrogatories

487.—(1) A party to any cause or matter may, in accordance with this Division, serve on any other party interrogatories relating to any matter in question between the applicant and that other party in the cause or matter which are necessary either —

(*a*) for disposing fairly of the cause or matter; or

(*b*) for saving costs.

(2) Without prejudice to the provisions of paragraph (1), a party may apply to the Court for an order giving him leave to serve on any other party interrogatories relating to any matter in question between the applicant and that other party in the cause or matter.

(3) A proposed interrogatory which does not relate to a matter referred to in paragraph (1) may not be administered notwithstanding that it might be admissible in oral cross examination of a witness.

(4) In this Division —

"interrogatories without order" means interrogatories served under paragraph (1);

"ordered interrogatories" means —

(*a*) interrogatories served under paragraph (2); or

(*b*) interrogatories which are required to be answered pursuant to an order made on an application under rule 489(2) and, where such an order is made, the interrogatories are not, unless the Court otherwise orders, to be treated as interrogatories without order for the purposes of rule 489(1).

(5) Unless the context otherwise requires, the provisions of this Division apply to both interrogatories without order and ordered interrogatories.

Form and nature of interrogatories

488.—(1) Where interrogatories are served, a note at the end of the interrogatories must specify —

(*a*) a period of time (not being less than 14 days after the date of service) within which the interrogatories are to be answered;

(*b*) where the party to be interrogated is a body corporate or unincorporate which is empowered by law to sue or be sued whether in its own name or in the name of an officer or other person, the officer or member on whom the interrogatories are to be served; and

(*c*) where the interrogatories are to be served on 2 or more parties or are required to be answered by an agent or a servant of a party, which of the interrogatories each party or, as the case may be, an agent or servant is required to answer, and which agent or servant.

(2) Subject to rule 491(1), a party on whom interrogatories are served must, unless the Court otherwise orders on an application under rule 489(2), give answers.

(3) The answers referred to in paragraph (2) must be given within the period specified under paragraph (1)(*a*) and, unless the Court otherwise directs, must be given on affidavit.

(4) Interrogatories without order must be served in Form 105 save for the reference to an order of Court.

(5) The answers to interrogatories without order must be in Form 106 save for the reference to an order of Court.

(6) Ordered interrogatories must be served in Form 105.

(7) The order for interrogatories must be in Form 107 and the answers to ordered interrogatories must be in Form 106.

Interrogatories without order

489.—(1) Interrogatories without order may be served on a party not more than twice.

(2) A party on whom interrogatories without order are served may, within 14 days after the service of the interrogatories, apply to the Court for the interrogatories to be varied or withdrawn.

(3) The Court may, on an application under paragraph (2), make such order as it thinks fit, including an order that the party who served the interrogatories shall not serve further interrogatories without order.

(4) Interrogatories without order must not be served on the Government.

Ordered interrogatories

490.—(1) Where an application is made for leave to serve interrogatories, a copy of the proposed interrogatories must be served with the summons in Form 108 or summons for directions under rule 486, as the case may be, by which the application is made.

(2) In deciding whether to give leave to serve interrogatories, the Court is to take into account —

(*a*) any offer made by the party to be interrogated to give particulars, make admissions or produce documents relating to any matter in question; and

(*b*) whether or not interrogatories without order have been administered.

Objections and insufficient answers

491.—(1) Without prejudice to rule 489(2), a person who wishes to object to

answering any interrogatory on the ground of privilege may do so in his answer.

(2) Where any person, on whom ordered interrogatories have been served, answers any of them insufficiently, the Court may make an order requiring him to make a further answer, either by affidavit or on oral examination as the Court may direct.

(3) Where any person, on whom interrogatories without order have been served, answers any of them insufficiently, the party serving the interrogatories may request for further and better particulars of the answer given.

(4) A request under paragraph (3) is not to be treated as service of further interrogatories for the purposes of rule 489(1).

Failure to comply with order

492.—(1) If a party fails to answer interrogatories or to comply with an order made under rule 491(2) or a request made under rule 491(3), the Court may make such order as it thinks just including, in particular —

(*a*) an order that the action be dismissed; or

(*b*) an order that the defence be struck out and judgment be entered accordingly.

(2) Without prejudice to paragraph (1), where a party fails to answer ordered interrogatories or to comply with an order made under rule 491(2), he shall be liable to committal.

(3) Service on a party's solicitor of an order to answer interrogatories made against the party shall be sufficient service to found an application for committal of the party disobeying the order, but the party may show in answer to the application that he had no notice or knowledge of the order.

(4) A solicitor, on whom an order to answer interrogatories made against his client is served and who fails without reasonable excuse to give notice of the order to his client, shall be liable to committal.

Use of answers to interrogatories at trial

493.—(1) A party may put in evidence at the trial of a cause or matter, or of any issue in the cause or matter, some only of the answers to interrogatories, or part only of such answer, without putting in evidence the other answers or, as the case may be, the whole of that answer.

(2) Despite paragraph (1), the Court may look at the whole of the answers and if the Court is of the opinion that any other answer or other part of an answer is so connected

with an answer or part of that answer used in evidence that the one should not be so used without the other, the Court may direct that that other answer or part shall be put in evidence.

Revocation and variation of orders

494. Any order made under this Division (including an order made on appeal) may, on sufficient cause being shown, be revoked or varied by a subsequent order or direction of the Court made or given at or before the trial of the cause or matter in connection with which the original order was made.

Division 22 — Interrogatories before action, etc.

Interrogatories against other person

495.—(1) An application for an order to administer interrogatories before the commencement of proceedings must be made by originating summons and the person against whom the order is sought must be made defendant to the originating summons.

(2) An application after the commencement of proceedings for an order to administer interrogatories to a person who is not a party to the proceedings —

(*a*) must be made by summons; and

(*b*) must be served on that person personally and on every party to the proceedings.

(3) The originating summons under paragraph (1) or summons under paragraph (2) must be supported by an affidavit which must —

(*a*) in the case of an originating summons under paragraph (1), state —

(i) the grounds for the application;

(ii) the material facts pertaining to the intended proceedings; and

(iii) whether the person against whom the order is sought is likely to be a party to subsequent proceedings in Court; and

(*b*) in any case —

(i) specify the interrogatories to be administered; and

(ii) show, if practicable by reference to any pleading served or

intended to be served in the proceedings, that the answers to the interrogatories are relevant to an issue arising or likely to arise out of the claim made or likely to be made in the proceedings or the identity of the likely parties to the proceedings, or both.

(4) A copy of the supporting affidavit must be served with the originating summons or summons on every person on whom the originating summons or summons is required to be served.

(5) An order to administer interrogatories before the commencement of proceedings or to administer interrogatories to a person who is not a party to the proceedings may be made by the Court —

(*a*) for the purpose of or with a view to identifying possible parties to any proceedings in such circumstances where the Court thinks it just to make such an order; and

(*b*) on such terms as it thinks just.

Interrogatories to be ordered only if necessary

496.—(1) On the hearing of an application for an order under rule 495, the Court may, if satisfied that interrogatories are not necessary, or not necessary at that stage of the cause or matter, dismiss or adjourn the application.

(2) Despite paragraph (1), the Court shall in any case refuse to make such an order if and so far as it is of the opinion that interrogatories are not necessary either for disposing fairly of the cause or matter or for saving costs.

Security for costs

497. An order to administer interrogatories may be made conditional on the applicant's giving security for the costs of the person against whom it is made or on such other terms, if any, as the Court thinks just.

Form, objections, failure to comply, etc.

498. Rules 488 (except paragraphs (4) and (5)) and 490 to 494 (except rule 491(3) and (4)) apply, with the necessary modifications, to this Division.

Costs

499. Unless the Court otherwise orders, where an application is made in accordance

with this Division, the person against whom the order is sought is entitled to his costs of the application, and of complying with any order made on the application on an indemnity basis.

Division 23 — Admissions

Admission of case of other party

500. Without prejudice to rule 399, a party to a cause or matter may give notice, by his pleading or otherwise in writing, that he admits the truth of the whole or any part of the case of any other party.

Notice to admit facts

501.—(1) A party to a cause or matter may, not later than 14 days after the cause or matter is set down for trial, serve on any other party a notice requiring that other party to admit, for the purpose of that cause or matter only, the facts specified in the notice.

(2) An admission made in compliance with a notice under this rule shall not be used —

(*a*) against the party by whom it was made in any cause or matter other than the cause or matter for the purpose of which it was made; or

(*b*) in favour of any person other than the person by whom the notice was given.

(3) The Court may at any time allow a party to amend or withdraw an admission made by him on such terms as may be just.

(4) A notice to admit facts under paragraph (1) must be in Form 109 and an admission of facts under paragraph (2) must be in Form 110.

Judgment on admission of facts

502. Where admissions of fact are made by a party to a cause or matter either by his pleadings or otherwise —

(*a*) any other party to the cause or matter may apply to the Court for such judgment or order as upon those admissions he may be entitled to, without waiting for the determination of any other question between the parties; and

(*b*) the Court may give such judgment, or make such order, on the application as it thinks just.

Admission and production of documents specified in list of documents

503.—(1) Subject to paragraphs (2) and (3) and without prejudice to the right of a party to object to the admission in evidence of any document, a party on whom a list of documents is served pursuant to any provision of Division 19 of this Part or any order made under that Division shall, unless the Court otherwise orders, be deemed to admit —

(*a*) that any document described in the list as an original document is such a document and was printed, written, signed or executed as it purports respectively to have been; and

(*b*) that any document described in the list as a copy is a true copy.

(2) Paragraph (1) does not apply to a document which a party, in his pleading, has denied the authenticity of.

(3) If before the expiration of 14 days after inspection of the documents specified in a list of documents or after the time limited for inspection of those documents expires, whichever is the later, the party to whom the list is served serves on the party whose list it is a notice stating, in relation to any documents specified in the list, that he does not admit the authenticity of that document and requires it to be proved at the trial, he shall not be deemed to make any admission in relation to that document under paragraph (1).

(4) A party to a cause or matter by whom a list of documents is served on any other party under any provision of Division 19 of this Part or any order made under that Division shall be deemed to have been served by that other party with a notice requiring him to produce at the trial of the cause or matter such of the documents specified in the list as are in his possession, custody or power.

(5) Paragraphs (1) to (4) apply in relation to an affidavit made in compliance with an order under rule 466, as they apply in relation to a list of documents served pursuant to any provision of or any order made under Division 19 of this Part.

Notices to admit or produce documents

504.—(1) Except where rule 503(1) applies, a party (called in this rule the first party) to a cause or matter may within 14 days after the cause or matter is set down for trial serve on any other party (called in this rule the second party) a notice requiring the second party to admit the authenticity of the documents specified in the notice.

(2) The second party must, if he wishes to challenge the authenticity of any document specified in the notice served on him, within 14 days after service of that notice, serve on the first party a notice stating that the second party —

(*a*) does not admit the authenticity of the document; and

(*b*) requires the document to be proved at the trial.

(3) If the second party fails to give a notice of non-admission in accordance with paragraph (2) in relation to any document, the second party shall be deemed to have admitted the authenticity of that document unless the Court otherwise orders.

(4) Except where rule 503(4) applies, a party to a cause or matter may serve on any other party a notice requiring him to produce the documents specified in the notice at the trial of the cause or matter.

(5) A notice to admit, a notice of non-admission and a notice to produce documents must be in Forms 111, 112 and 113, respectively.

Division 24 — Originating summons procedure

Application

505. This Division applies to all originating summons.

Hearing of originating summons

506. All originating summonses shall be heard in Chambers, subject to any express provision of these Rules, any written law, any directions of the Court or any practice directions.

Dispute as to jurisdiction

507.—(1) A defendant who wishes to dispute the jurisdiction of the Court in the proceedings by reason of any irregularity in or service of the originating summons or in any order giving leave to serve the originating summons out of the jurisdiction or extending the validity of the originating summons for the purpose of service or on any other ground may apply to the Court for —

(*a*) an order setting aside the originating summons or service of the originating summons on him;

(*b*) an order declaring that the originating summons has not been duly served on him;

(*c*) the discharge of any order giving leave to serve the originating summons on him out of the jurisdiction;

(*d*) the discharge of any order extending the validity of the originating

summons for the purpose of service;

(*e*) the protection or release of any property of the defendant seized or threatened with seizure in the proceedings;

(*f*) the discharge of any order made to prevent any dealing with any property of the defendant;

(*g*) a declaration that in the circumstances of the case the Court has no jurisdiction over the defendant in respect of the subject-matter of the claim or the relief or remedy sought in the action; or

(*h*) such other relief as may be appropriate.

(2) The defendant must make the application under paragraph (1) within 21 days after service of the originating summons and supporting affidavit or affidavits on him.

(3) A defendant who wishes to contend that the Court should not assume jurisdiction over the action on the ground that Singapore is not the proper forum for the dispute must, within 21 days after service of the originating summons and supporting affidavit or affidavits on him, apply to the Court for an order staying the proceedings.

(4) An application under paragraph (1) or (3) must be made by summons supported by an affidavit verifying the facts on which the application is based and a copy of the affidavit must be served with the summons.

(5) On hearing an application under paragraph (1) or (3), the Court may make such order as it thinks fit and may give such directions for its disposal as may be appropriate, including directions for the trial of the application as a preliminary issue.

Supporting affidavits

508.—(1) Unless otherwise provided in any written law, a plaintiff who intends to adduce evidence in support of an originating summons must do so by affidavit.

(2) The plaintiff must file the affidavit or affidavits and serve a copy on every defendant not later than 7 days after the service of the originating summons.

(3) Unless otherwise provided in any written law, in the case of an ex parte originating summons, the applicant must file a supporting affidavit or affidavits at the time of filing of the originating summons.

(4) The defendant who intends to adduce evidence with reference to the originating summons served on him must do so by affidavit.

(5) The defendant must file the affidavit or affidavits and serve a copy on the plaintiff

not later than 21 days after being served with a copy of the plaintiff's affidavit or affidavits under paragraph (2).

(6) No further affidavit shall be received in evidence without the leave of the Court.

Directions, etc., by Court

509.—(1) The Court hearing an originating summons may, if the defendant's liability to the plaintiff in respect of any claim made by the plaintiff is established, make such order in favour of the plaintiff as the nature of the case may require.

(2) Where the Court makes an order under paragraph (1) against a defendant who does not appear at the hearing, the Court, if satisfied that it is just to do so, may rehear the originating summons.

(3) Unless on the first hearing of an originating summons the Court disposes of the originating summons altogether or orders the cause or matter begun by it to be transferred to a Family Court or makes an order under rule 512, the Court must give such directions as to the further conduct of the proceedings as it thinks best adapted to secure the just, expeditious and economical disposal of the proceedings.

(4) Without prejudice to the generality of paragraph (3), the Court must, at as early a stage of the proceedings on the originating summons as appears to it to be practicable, consider —

(*a*) whether there is or may be a dispute as to fact; and

(*b*) whether the just, expeditious and economical disposal of the proceedings can accordingly best be secured by hearing the originating summons on oral evidence or mainly on oral evidence.

(5) In making a consideration under paragraph (4), the Court may, if it thinks fit, order —

(*a*) that no further evidence shall be filed; and

(*b*) that the originating summons is to be heard on oral evidence or partly on oral evidence and partly on affidavit evidence, with or without cross-examination of any of the deponents, as it may direct.

(6) Without prejudice to the generality of paragraph (3), and subject to paragraphs (4) and (5), the Court may give directions as to the filing of evidence and as to the attendance of deponents for cross-examination and any other directions.

Adjournment of originating summons

510.—(1) The hearing of the originating summons by the Court may (if necessary) be adjourned from time to time, either generally or to a particular date, as may be appropriate, and the powers of the Court under rule 509 may be exercised at any resumed hearing.

(2) If the hearing of the originating summons is adjourned generally, the applicant or plaintiff, as the case may be, may restore it to the list on 2 days' notice to all the other parties and any of those parties may restore it with the leave of the Court.

Counterclaim by defendant

511.—(1) A defendant to an action begun by originating summons who alleges that he has any claim or is entitled to any relief or remedy against the plaintiff in respect of any matter (whenever and however arising) may make a counterclaim in the action in respect of that matter instead of bringing a separate action.

(2) A defendant who wishes to make a counterclaim under this rule must at the first or any resumed hearing of the originating summons by the Court, but, in any case, at as early a stage in the proceedings as is practicable, inform the Court of the nature of his claim.

(3) Without prejudice to the powers of the Court under paragraph (4), the defendant's claim referred to in paragraph (2) must be made in such manner as the Court may direct under rule 509 or 512.

(4) If it appears on the application of a plaintiff against whom a counterclaim is made under this rule that the subject-matter of the counterclaim ought for any reason to be disposed of by a separate action, the Court may —

(*a*) order the counterclaim to be struck out or to be tried separately; or

(*b*) make such other order as may be expedient.

Continuation of proceedings as if cause or matter begun by writ

512.—(1) Where, in the case of a cause or matter begun by originating summons, it appears to the Court at any stage of the proceedings that the proceedings should for any reason be continued as if the cause or matter had been begun by writ, it may order —

(*a*) the proceedings to continue as if the cause or matter had been so begun; and

(*b*) that pleadings are to be delivered or that any affidavits are to stand as pleadings, with or without liberty to any of the parties to add to the pleadings or to apply for particulars of the pleadings.

(2) Where the Court decides to make such an order, rules 481 to 486 are, with the omission of so much of rule 486(1) as requires parties to serve a notice specifying the orders and directions which they require and with any other necessary modifications, to apply as if there had been a summons for directions in the proceedings and that order were one of the orders to be made on the summons for directions.

(3) This rule applies even if the cause or matter in question could not have been begun by writ.

(4) Any reference in these Rules to an action begun by writ are, unless the context otherwise requires, to be construed as including a reference to a cause or matter proceedings in which are ordered under this rule to continue as if the cause or matter had been so begun.

Order for hearing or trial

513.—(1) The Court shall, on being satisfied that a cause or matter begun by originating summons is ready for determination, make an order for the hearing or trial of that cause or matter in accordance with this rule, unless —

(*a*) the Court disposes of the cause or matter in Chambers;

(*b*) where the Court is the Family Division of the High Court, the Court orders the cause or matter to be transferred to a Family Court; or

(*c*) the Court makes an order in relation to the cause or matter under rule 512 or some other provision of these Rules.

(2) Rules 564 to 569 —

(*a*) apply in relation to a cause or matter begun by originating summons and to an order made in that cause or matter under this rule as they apply in relation to an action begun by writ; and

(*b*) have effect accordingly with the necessary modifications and with the further modification that for references in those rules to the summons for directions there shall be substituted references to the first or any resumed hearing of the originating summons by the Court.

Failure to prosecute proceedings with despatch

514.—(1) The Court may order a cause or matter begun by originating summons to be dismissed or make such order as it may be just if —

(*a*) the plaintiff defaults in complying with any order or direction of the Court

as to the conduct of the proceedings; or

(*b*) the Court is satisfied that the plaintiff is not prosecuting the proceedings with due despatch.

(2) Paragraph (1) applies, with the necessary modifications, to a defendant by whom a counterclaim is made under rule 511 as it applies to a plaintiff.

(3) Where, by virtue of an order made under rule 512, proceedings in a cause or matter begun by originating summons are to continue as if the cause or matter had been begun by writ, paragraphs (1) and (2) do not apply to the cause or matter after the making of the order.

Abatement, etc., of action

515. Rule 570 applies in relation to an action begun by originating summons as it applies in relation to an action begun by writ.

Division 25 — Interlocutory injunctions, interim preservation of property, interim payments, etc.

Application for injunction

516.—(1) An application for the grant of an injunction may be made by any party to a cause or matter before or after the trial of the cause or matter, whether or not a claim for the injunction was included in that party's originating process, counterclaim or third party notice, as the case may be.

(2) Such application may be made by summons supported by an affidavit and where the case is one of urgency, may be made ex parte.

(3) The plaintiff may not make such an application before the issue of the originating process except where the case is one of urgency, and in that case —

(*a*) the injunction applied for may be granted on such terms, if any, as the Court thinks fit; and

(*b*) if the originating process is not issued within 2 days after the granting of the injunction, or such other period as the Court thinks fit, the Court shall on application by a defendant discharge the injunction.

(4) An order for interim injunction must be in Form 114.

Detention, preservation, etc., of subject-matter of cause or matter

517.—(1) On the application of any party to a cause or matter, the Court may make an order —

(*a*) for the detention, custody or preservation of any property which is the subject-matter of the cause or matter, or as to which any question may arise in the cause or matter; or

(*b*) for the inspection of any such property in the possession of a party to the cause or matter.

(2) For the purpose of enabling any order under paragraph (1) to be carried out, the Court may by the order authorise any person to enter upon any immovable property in the possession of any party to the cause or matter.

(3) Where the right of any party to a specific fund is in dispute in a cause or matter, the Court may, on the application of a party to the cause or matter, order the fund to be paid into Court or otherwise secured.

(4) An order under this rule may be made on such terms, if any, as the Court thinks just.

(5) An application for an order under this rule must be made by summons.

(6) Unless the Court otherwise directs, an application by a defendant for such an order may not be made before he enters an appearance.

Power to order samples to be taken, etc.

518.—(1) Where the Court considers it necessary or expedient for the purpose of obtaining full information or evidence in any cause or matter, it may, on the application of a party to the cause or matter, and on such terms, if any, as it thinks just, by order authorise or require —

(*a*) any sample to be taken of any property which is the subject-matter of the cause or matter or as to which any question may arise in the cause or matter;

(*b*) any observation to be made on such property; or

(*c*) any experiment to be tried on or with such property.

(2) For the purpose of enabling any order under paragraph (1) to be carried out, the Court may by the order authorise any person to enter upon any immovable property in the possession of any party to the cause or matter.

(3) Rule 517(5) and (6) applies in relation to an application for an order under this rule as it applies in relation to an application for an order under that rule.

Sale of perishable property, etc.

519.—(1) The Court may, on the application of any party to a cause or matter, make an order for the sale by such person, in such manner and on such terms (if any) as may be specified in the order of any movable property which is the subject-matter of the cause or matter or as to which any question arises therein and which is of a perishable nature or likely to deteriorate if kept or which for any other good reason it is desirable to sell forthwith.

(2) Rule 517(5) and (6) applies in relation to an application for an order under this rule as it applies in relation to an application for an order under that rule.

Order for early trial

520. Where on the hearing of an application, made before the trial of a cause or matter, for an injunction or the appointment of a receiver or an order under rule 517, 518 or 519, it appears to the Court that the matter in dispute can be better dealt with by an early trial than by considering the whole merits of the matter for the purposes of the application, the Court —

(*a*) may make an order accordingly; and

(*b*) may also make such order as respects the period before trial as the justice of the case requires.

Recovery of movable property subject to lien, etc.

521. Where the plaintiff, or the defendant by way of counterclaim, claims the recovery of specific movable property and the party from whom recovery is sought does not dispute the title of the party making the claim but claims to be entitled to retain the property by virtue of a lien or otherwise as security for any sum of money, the Court may, at any time after the claim to be so entitled appears from the pleadings (if any) or by affidavit or otherwise to its satisfaction, order —

(*a*) that the party seeking to recover the property be at liberty to pay into Court, to abide the event of the action, the amount of money in respect of which the security is claimed and such further sum (if any) for interest and costs as the Court may direct; and

(*b*) that, upon such payment being made, the property claimed be given up to the party claiming it, but subject to the provisions of the Exchange Control Act (Cap. 99).

Directions

522.—(1) Where an application is made under any of the above provisions of this Division, the Court may give directions as to the further proceedings in the cause or matter.

(2) If, in an action begun by writ, not being any such action as is mentioned in rule 480(2)(*a*), (*b*), (*c*) and (*e*), the Court thinks fit to give directions under this rule before the summons for directions, rules 481 to 486 will, with the omission of so much of rule 486(1) requiring parties to serve a notice specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application were a summons for directions.

Allowance of income of property pending trial[2]

523. Where any movable or immovable property forms the subject-matter of any proceedings, and the Court is satisfied that it will be more than sufficient to answer all the claims thereon for which provision ought to be made in the proceedings, the Court may at any time —

(*a*) allow the whole or part of the income of the property to be paid, during such period as it may direct, to all or any of the parties who have an interest therein; or

(*b*) direct that any part of the movable property be transferred or delivered to all or any of such parties.

Meaning of interim payments

524. For the purposes of rules 525 to 533 —

(*a*) "interim payments", in relation to a defendant, means a payment on account of any damages, debt or other sum (excluding costs) which he may be held liable to pay to or for the benefit of the plaintiff; and

(*b*) any reference to the plaintiff or defendant includes a reference to any person who, for the purpose of the proceedings, acts as the plaintiff's litigation representative[3] or the defendant's guardian.

Application for interim payment

525.—(1) The plaintiff may, at any time after the writ has been served on a defendant and the time limited for the defendant to enter appearance has expired, apply to the Court for an order requiring that defendant to make an interim payment.

(2) An application under this rule must be made by summons but may be included in a summons for summary judgment under Division 8 of this Part.

(3) An application under this rule must be supported by an affidavit which must —

(*a*) verify the amount of the damages, debt or other sum to which the application relates and the grounds of the application;

(*b*) exhibit any documentary evidence relied on by the plaintiff in support of the application; and

(*c*) if the plaintiff's claim is made under the Civil Law Act (Cap. 43), contain the particulars mentioned in section 20(6) of that Act.

(4) The summons and the supporting affidavit or affidavits must be filed at the same time, and must be served on the defendant against whom the order is sought within 3 days after the date of filing.

(5) Despite the making or refusal of an order for an interim payment, a second or subsequent application may be made upon cause shown.

Order for interim payment in respect of damages

526.—(1) On the hearing of an application under rule 525 in an action for damages, the Court may, if it thinks fit, order the defendant to make an interim payment of such amount as it thinks just, if the Court is satisfied —

(*a*) that the defendant against whom the order is sought has admitted liability for the plaintiff's damages;

(*b*) that the plaintiff has obtained judgment against the defendant for damages to be assessed; or

(*c*) that, if the action proceeded to trial, the plaintiff would obtain judgment for substantial damages against the defendant or, where there are 2 or more defendants, against any one or more of them.

(2) The amount of interim payment that the Court may order under paragraph (1) must not exceed a reasonable proportion of the damages which in the opinion of the Court are likely to be recovered by the plaintiff after taking into account any relevant contributory negligence and any set-off, cross-claim or counterclaim on which the defendant may be entitled to rely.

Order for interim payment in respect of sums other than damages

527.—(1) On hearing an application under rule 525, the Court may, if it thinks fit, order the defendant to make an interim payment of such amount as it thinks just, after taking into account any set-off, cross-claim or counterclaim on which the defendant may

be entitled to rely, if the Court is satisfied —

(*a*) that the plaintiff has obtained an order for an account to be taken as between himself and the defendant and for any amount certified due on taking the account to be paid;

(*b*) that the plaintiff's action includes a claim for possession of land and, if the action proceeded to trial, the defendant would be held liable to pay to the plaintiff a sum of money in respect of the defendant's use and occupation of the land during the pendency of the action, even if a final judgment or order were given or made in favour of the defendant; or

(*c*) that, if the action proceeded to trial, the plaintiff would obtain judgment against the defendant for a substantial sum of money apart from any damages or costs.

(2) The order made by the Court under paragraph (1) is without prejudice to any contentions of the parties as to the nature or character of the sum to be paid by the defendant.

Manner of payment

528.—(1) Subject to rule 666, the amount of any interim payment ordered to be made must be paid to the plaintiff unless the order provides for it to be paid into Court.

(2) Where the amount of interim payment is paid into Court, the Court may, on the plaintiff's application, order the whole or any part of it to be paid out to him at such time or times as the Court thinks fit.

(3) An application under paragraph (2) for money in Court to be paid out may be made ex parte, but the Court may direct that the application be served on any other party.

(4) The Court may order an interim payment to be made in one sum or by such instalments as the Court thinks fit.

(5) Where a payment is ordered in respect of the defendant's use and occupation of land, the order may provide for periodical payments to be made during the pendency of the action.

Directions on application under rule 525

529. Where an application is made under rule 525, the Court may give directions as to the further conduct of the action and, so far as may be applicable, rules 481 to 486 will, with the omission of so much of rule 486(1) requiring the parties to serve a notice specifying the orders and directions which they require and with any other necessary

modifications, apply as if the application were a summons for directions and, in particular, the Court may order an early trial of the action.

Non-disclosure of interim payment

530.—(1) The fact that an order has been made under rule 526 or 527 must not be pleaded.

(2) Unless the defendant consents or the Court so directs, no communication of the fact referred to in paragraph (1) or of the fact that an interim payment has been made, whether voluntarily or pursuant to an order, shall be made to the Court at the trial, or hearing, of any question or issue as to liability or damages until all questions of liability and amount have been determined.

Payment into Court, etc., in satisfaction

531. Where, after making an interim payment, whether voluntarily or pursuant to an order, a defendant pays a sum of money into Court under rule 435 or makes an offer to settle under rule 446, as the case may be, the notice of payment must state that the defendant has taken into account the interim payment.

Adjustment on final judgment or order or on discontinuance

532.—(1) Where a defendant has been ordered to make an interim payment or has made an interim payment, whether voluntarily or pursuant to an order, the Court may make such order with respect to the interim payment as may be just —

(*a*) when the Court gives or makes a final judgment or order;

(*b*) when the Court grants the plaintiff leave to discontinue his action or to withdraw the claim in respect of which the interim payment has been made; or

(*c*) at any other stage of the proceedings on the application of any party.

(2) In particular, the Court may make an order —

(*a*) for the repayment by the plaintiff of all or part of the interim payment;

(*b*) for the payment to be varied or discharged; or

(*c*) for the payment by any other defendant of any part of the interim payment which the defendant who made it is entitled to recover from that other defendant by way of contribution or indemnity or in respect of any remedy or relief relating to or connected with the plaintiff's claim.

Counterclaims and other proceedings

533. Rules 524 to 532 apply, with the necessary modifications, to any counterclaim or proceeding commenced otherwise than by writ, where one party seeks an order for an interim payment to be made by another.

Division 26 — Receivers

Application for receiver and injunction

534.—(1) An application for the appointment of a receiver may be made by summons.

(2) An application for an injunction ancillary or incidental to an order appointing a receiver may be joined with the application for such order.

(3) An applicant who wishes to apply for the immediate grant of such injunction may do so by ex parte summons supported by an affidavit.

(4) The Court hearing an application under paragraph (3) —

(*a*) may grant an injunction restraining the party beneficially entitled to any interest in the property of which a receiver is sought from assigning, charging or otherwise dealing with that property until after the hearing of a summons for the appointment of the receiver; and

(*b*) may require the issue of a summons, returnable on such date as the Court may direct.

Giving of security by receiver

535.—(1) Where a judgment is given, or an order made, directing the appointment of a receiver, then, unless the judgment or order otherwise directs, a person shall not be appointed receiver in accordance with the judgment or order until he has given security in accordance with this rule.

(2) A person who is required to give security in accordance with this rule, by virtue of paragraph (1) or of any judgment or order appointing him to be a receiver, must give security approved by the Court duly to account for what he receives as receiver and to deal with it as the Court directs.

(3) Unless the Court otherwise directs, the security must be —

(*a*) by guarantee; or

(*b*) if the amount for which the security is to be given does not exceed $10,000, by an undertaking in Form 115.

(4) The guarantee or undertaking must be filed in the Registry.

Remuneration of receiver

536. A person appointed receiver shall be allowed such proper remuneration, if any, as may be fixed by the Court.

Receiver's accounts

537.—(1) A receiver must submit accounts to the Court at such intervals or on such dates as the Court may direct in order that they may be passed.

(2) Unless the Court otherwise directs, each account submitted by a receiver must be accompanied by an affidavit verifying it in Form 116.

(3) The receiver's accounts and affidavit (if any) must be left at the Registry, and the plaintiff or party having the conduct of the cause or matter must thereupon obtain an appointment for the purpose of passing such accounts.

(4) The passing of a receiver's accounts must be certified by the Registrar.

Payment of balance, etc., by receiver

538. The Court is to fix the days on which a receiver must pay into Court the amounts shown by his account as due from him, or such part of the amounts as the Court may certify as proper to be paid in by him.

Default by receiver

539.—(1) Where a receiver fails to attend for the passing of any account of his, or fails to submit any accounts, make any affidavit or do any other thing which he is required to submit, make or do, the receiver and all or any of the parties to the cause or matter in which the receiver was appointed may be required to attend in Chambers to show cause for the failure.

(2) The Court may, either in Chambers or after adjournment into Court, give such directions as it thinks proper including, if necessary, directions for the discharge of the receiver and the appointment of another receiver and the payment of costs.

(3) Without prejudice to paragraphs (1) and (2), where a receiver fails to attend for the passing of any accounts of his or fails to submit any accounts or fails to pay into

Court on the date fixed by the Court any sum shown by his accounts as due from him, the Court —

(*a*) may disallow any remuneration claimed by the receiver in any subsequent accounts; and

(*b*) may, where the receiver has failed to pay any such sum into Court, charge him with interest at the rate of 6% per annum or at such other rate as the Chief Justice may from time to time direct on that sum while in his possession as receiver.

Division 27 — Sale, etc., of immovable property by order of Court

Power to order sale of immovable property

540.—(1) Where in any cause or matter relating to any immovable property it appears necessary or expedient for the purposes of the cause or matter that the property or any part of the property should be sold, the Court may order that property or part to be sold.

(2) Any party bound by the order and in possession of the property or part of the property, or in receipt of the rents and profits of the property or part, may be compelled to deliver up such possession or receipt to the purchaser or to such other person as the Court may direct.

Manner of carrying out sale

541.—(1) Where an order is made, whether in Court or in Chambers, directing any immovable property to be sold —

(*a*) the Court —

(i) may permit the party or person having the conduct of the sale to sell the property in such manner as he thinks fit; or

(ii) may direct that the property be sold in such manner as the Court may either by the order or subsequently direct for the best price that can be obtained; and

(*b*) all proper parties shall join in the sale and conveyance as the Court shall direct.

(2) The Court may give such directions as it thinks fit for the purpose of effecting the sale, including, without prejudice to the generality of the foregoing words, directions —

(*a*) appointing the party or person who is to have the conduct of the sale;

(*b*) fixing the manner of sale, whether by contract conditional on the approval of the Court, private treaty, public auction, tender or some other manner;

(*c*) fixing a reserve or minimum price;

(*d*) requiring payment of the purchase money into Court or to trustees or other persons;

(*e*) for settling the particulars and conditions of sale;

(*f*) for obtaining evidence of the value of the property;

(*g*) fixing the security (if any) to be given by the auctioneer, if the sale is to be by public auction, and the remuneration to be allowed to him; and

(*h*) requiring the title to be referred to an advocate and solicitor for his opinion on the title and to settle the particulars and conditions of sale.

Certifying result of sale

542.—(1) If either the Court has directed payment of the purchase money into Court or the Court so directs, the result of a sale by order of the Court must be certified in Form 117 —

(*a*) in the case of a sale by public auction, by the auctioneer who conducted the sale; and

(*b*) in any other case, by the solicitor of the party or person having the conduct of the sale.

(2) The Court may require the certificate to be verified by the affidavit of the auctioneer or solicitor, as the case may be.

(3) The solicitor of the party or person having the conduct of the sale must file the certificate and affidavit (if any) in the Registry.

Mortgage, exchange or partition under order of Court

543. Rules 541 and 542, so far as applicable and with the necessary modifications, apply in relation to the mortgage, exchange or partition of any immovable property under an order of Court as they apply in relation to the sale of any immovable property under such an order.

Reference of matters to advocate and solicitor

544. The Court may refer to an advocate and solicitor —

(*a*) any matter relating to the investigation of the title to any property with a view to an investment of money in the purchase or on mortgage of the property, or with a view to the sale of the property;

(*b*) any matter relating to the settlement of a draft of a conveyance, mortgage, settlement or other instrument; and

(*c*) any other matter it thinks fit, and may act upon the advocate and solicitor's opinion in the matter referred.

Objection to opinion of advocate and solicitor

545. Any party may object to the opinion given by the advocate and solicitor on a reference under rule 544, and if he does so the point in dispute is to be determined by the Judge either in Chambers or in Court as the Judge thinks fit.

Division 28 — Applications and proceedings in Chambers

Mode of application

546. Except as provided by rule 486, every application in Chambers must be made by summons in Form 118.

Issue of summons

547.—(1) A summons, by which an application in Chambers is to be made, is issued on its being sealed by an officer of the Registry.

(2) A summons may not be amended after issue without the leave of the Court.

Service of summons

548.—(1) A summons asking only for the extension or abridgment of any period of time may be served on the day before the day specified in the summons for the hearing of the summons.

(2) Except as provided in paragraph (1) and unless the Court otherwise orders or any of these Rules otherwise provides, a summons must be served on every other party not less than 2 clear days before the day specified in the summons for the hearing of the summons.

Adjournment of hearing

549.—(1) The hearing of a summons may be adjourned from time to time, either generally or to a particular date, as may be appropriate.

(2) If the hearing is adjourned generally, the party who took out the summons may restore it to the list on 2 clear days' notice to all the other parties on whom the summons was served.

Proceeding in absence of party failing to attend

550.—(1) Where any party to a summons fails to attend on the first or any resumed hearing of the summons, the Court may proceed in his absence if, having regard to the nature of the application, it thinks it expedient to do so.

(2) Before proceeding in the absence of any party, the Court may require to be satisfied that the summons or, as the case may be, notice of the time appointed for the resumed hearing was duly served on that party.

(3) Where the Court hearing a summons proceeded in the absence of a party, then, whether or not an order made on the hearing has been perfected, the Court may re-hear the summons if satisfied that it is just to do so.

(4) Where an application made by summons has been dismissed without a hearing because the party who took out the summons failed to attend the hearing, the Court, if satisfied that it is just to do so, may allow the summons to be restored to the list.

Order made ex parte may be set aside

551. The Court may set aside an order made ex parte.

Jurisdiction of Registrar

552. The Registrar shall have power to transact all such business and exercise all such authority and jurisdiction under any written law as may be transacted and exercised by a Judge in Chambers except such business, authority and jurisdiction —

(*a*) as the Presiding Judge of the Family Justice Courts may, with the concurrence of the Chief Justice, from time to time direct to be transacted or exercised by a Judge in person; or

(*b*) as may by any of these Rules be expressly directed to be transacted or exercised by a Judge in person.

Reference of matter to Judge

553.—(1) The Registrar may refer to a Judge any matter which the Registrar thinks

should properly be decided by a Judge.

(2) On a reference by the Registrar, the Judge may either dispose of the matter or refer it back to the Registrar, as the case may be, with such directions as the Judge thinks fit.

Power to direct hearing in Court

554.—(1) All summonses, applications or appeals shall be heard in Chambers, subject to any express provision of these Rules, any written law, any directions of the Court or any practice directions.

(2) Any matter heard in Court by virtue of paragraph (1) may be adjourned from Court into Chambers.

Obtaining assistance of assessors or experts

555. If the Court thinks it expedient in order to enable it better to determine any matter arising in proceedings in Chambers, it may obtain the assistance of an assessor or expert pursuant to Division 29 or 36 of this Part, as the case may be.

Service or use of affidavit

556. Any party —

(*a*) filing an affidavit intended to be used by him in any proceedings in Chambers; or

(*b*) intending to use in any such proceedings any affidavit filed in previous proceedings,

must serve the affidavit on every other party or give notice of his intention to do so, as the case may be.

Disposal of matters in Chambers

557. The Judge may by any judgment or order made in Court in any proceedings direct that such matters (if any) in the proceedings as he may specify shall be disposed of in Chambers.

Papers for use of Court, etc.

558. Where any document is to be used in evidence in proceedings in Chambers —

(*a*) the original of that document must, if it is available, be brought to those proceedings; and

(*b*) copies of that document or of any part of that document must be supplied for the use of the Court or be given to the other parties to the proceedings.

Division 29 — Mode of trial

Mode of trial

559. Subject to the provisions of these Rules, a cause or matter, or any question or issue arising in the cause or matter, may be tried before a Judge with or without the assistance of assessors.

Time, etc., of trial of questions or issues

560. The Court —

(*a*) may order any question or issue arising in a cause or matter, whether of fact or law or partly of fact and partly of law, and whether raised by the pleadings or otherwise, to be tried before, at or after the trial of the cause or matter; and

(*b*) may give directions as to the manner in which the question or issue shall be stated.

Determining mode of trial

561.—(1) In every action begun by writ, an order made on the summons for directions shall determine the mode of the trial.

(2) The Court may, by a subsequent order made at or before the trial, vary an order referred to in paragraph (1).

(3) In any such action —

(*a*) different questions or issues may be ordered to be tried by different modes of trial; and

(*b*) one or more questions or issues may be ordered to be tried before the others.

(4) The references in this Division to the summons for directions include references to any summons or application to which, under any of these Rules, rules 481 to 486 are to apply, with or without modifications.

Trial with assistance of assessors

562.—(1) This rule applies where one or more assessors are appointed under section 10A of the Supreme Court of Judicature Act (Cap. 322), section 27 of the Family Justice Act 2014 (Act 27 of 2014) or section 33 of the State Courts Act (Cap. 321).

(2) The assessor shall assist the Court in dealing with a matter in which the assessor has skill and experience.

(3) An assessor shall take such part in the proceedings as the Court may direct.

(4) Where the Court intends to appoint an assessor, it must notify each party in writing of the name of the proposed assessor and of the qualifications of the assessor not less than 14 days before appointing the assessor.

(5) Where any person has been proposed for appointment as an assessor, any party may object to the proposed appointment of the assessor, either personally or in respect of the assessor's qualification.

(6) Any such objection —

(*a*) must be made in writing and filed with the Court within 7 days after receipt of the notification referred to in paragraph (4); and

(*b*) is to be taken into account by the Court in deciding whether or not to make the appointment.

(7) The Court shall determine the remuneration to be paid to the assessor for his services and such remuneration shall form part of the costs of the proceedings.

(8) The Court may order any party to deposit in Court a specified sum in respect of the assessor's fees.

(9) Where the Court makes an order under paragraph (8), the assessor will not be asked to act until the sum has been deposited.

(10) Paragraphs (7), (8) and (9) will not apply where the remuneration of the assessor is to be paid out of moneys provided by Parliament.

Dismissal of action, etc., after decision of preliminary issue

563. If it appears to the Court that the decision of any question or issue arising in a cause or matter and tried separately from the cause or matter substantially disposes of the cause or matter or renders the trial of the cause or matter unnecessary, it may —

(*a*) dismiss the cause or matter; or

(*b*) make such other order or give such judgment in the cause or matter as may be just.

Division 30 — Setting down for trial of action begun by writ

Application

564. This Division applies to actions begun by writ and references in this Division to an action is to be construed as references to an action so begun.

Time for setting down action

565.—(1) Every order made on a summons for directions must —

(*a*) fix a period within which the plaintiff is to set down the action for trial;

(*b*) contain an estimate of the length of the trial; and

(*c*) specify the number of witnesses, if any.

(2) Where the plaintiff does not, within the period fixed under paragraph (1), set the action down for trial, the defendant may —

(*a*) set the action down for trial; or

(*b*) apply to the Court to dismiss the action for want of prosecution.

(3) On the hearing of an application under paragraph (2)(*b*), the Court may order the action to be dismissed accordingly or may make such order as it thinks just.

(4) An action set down for trial must —

(*a*) contain an estimate of the length of the trial;

(*b*) specify the number of witnesses (if any); and

(*c*) subject to any directions under rule 568, specify the list in which the action is to be put.

Filing documents when setting down and notification of setting down

566.—(1) The party setting down an action for trial must file with the Registrar a notice for setting down an action for trial in Form 119 together with a bundle for the use of the Judge consisting of one copy of each of the following documents:

(*a*) the writ;

(*b*) the pleadings (including any affidavits ordered to stand as pleadings), any notice or order for particulars and the particulars given;

(*c*) all orders made on the summons for directions.

(2) The bundle must —

(*a*) be bound up in the proper chronological order; and

(*b*) be endorsed on it the names, addresses and telephone numbers of the solicitors for the parties or, in the case of a party who has no solicitor, of the party himself.

(3) The notice for setting down an action for trial must be served on all other parties to the action within 24 hours from the time that the notice is filed.

Filing documents prior to trial

567.—(1) The following documents must be filed not less than 5 days before the trial of an action:

(*a*) the originals of the affidavit of the evidence-in-chief of all witnesses;

(*b*) a bundle of all documents that will be relied on or referred to in the course of the trial by any party, including any documents that are exhibited to the affidavits of the evidence-in-chief of all witnesses;

(*c*) where the trial is in the Family Division of the High Court, opening statements of all parties as may be prescribed in any practice directions.

(2) Each party must file the affidavits of the evidence-in-chief of that party's witnesses.

(3) All the parties must, as far as possible, agree on the contents of the bundle of the documents referred to in paragraph (1)(*b*) and this bundle of agreed documents must be filed by the plaintiff.

(4) If the parties are unable to agree on the inclusion of certain documents, those documents on which agreement cannot be reached must be included in separate bundles.

(5) Each separate bundle referred to in paragraph (4) must be filed by the party that intends to rely on or refer to the documents in that bundle at the same time as the bundle of documents referred to in paragraph (1)(*b*).

(6) The documents contained in bundles must be arranged chronologically or in some logical order and must be paginated.

(7) Care must be taken to avoid duplication within the same bundle.

(8) The contents and format of every bundle of documents filed pursuant to this rule

must comply with the requirements laid down in any practice directions.

(9) Any party may apply at any time to the Registrar for directions as to the filing, bundling and organisation of documents intended to be used at the trial of the action.

(10) The Registrar may, on an application under paragraph (9), make such order or give such direction as he thinks is necessary to achieve the just, expeditious and economical conduct of the trial of the action.

Directions relating to lists

568. Nothing in this Division shall prejudice any power of the Chief Justice or of the Presiding Judge of the Family Justice Courts, as the case may be, to give directions —

(*a*) specifying the lists in which actions, or actions of any class or description, are to be set down for trial and providing for the keeping and publication of the lists;

(*b*) providing for the determination of a date for the trial of any action which has been set down or a date before which the trial of any action is not to take place; and

(*c*) as to the making of applications (whether to a Court or a Judge or the Registrar) to fix, vacate or alter any such date, and, in particular, requiring any such application to be supported by an estimate of the length of the trial and any other relevant information.

Duty to furnish information

569. All parties to an action entered in any list must —

(*a*) furnish without delay to the Registrar all available information as to the action being or being likely to be settled, or affecting the estimated length of the trial; and

(*b*) if the action is settled or withdrawn, notify the Registrar of the fact without delay.

Abatement, etc., of action

570. Where an action which has been set down for trial becomes abated, or the interest or liability of any party to the action is assigned or transmitted to or devolves on some other person, the solicitor for the plaintiff or other party having the conduct of the action must, as soon as practicable after becoming aware of it, certify the abatement or change of interest or liability and send the certificate to the Registrar.

Parties failing to appear

571.—(1) When the trial of an action is called on and neither party appears, the Judge may dismiss the action or make any other order as he thinks fit.

(2) When the trial of an action is called on and one party does not appear, the Judge may —

(*a*) proceed with the trial of the action or any counterclaim in the absence of that party;

(*b*) without trial give judgment or dismiss the action; or

(*c*) make any other order as he thinks fit.

Judgment, etc., given in absence of party may be set aside

572.—(1) The Court may, on the application of any party, set aside any judgment or order made under rule 571 on such terms as the Court thinks just.

(2) Unless the Court otherwise orders, an application under this rule must be made within 14 days after the date of the judgment or order.

Adjournment of trial

573. The Judge may, if he thinks it expedient in the interest of justice, adjourn a trial for such time, and upon such terms, if any, as he thinks fit.

Order of speeches

574.—(1) The Judge before whom an action is tried may give directions as to the party to begin and the order of speeches at the trial and, subject to any such directions, the party to begin and the order of speeches shall be that provided by this rule.

(2) Subject to paragraph (7), the plaintiff shall begin by opening his case.

(3) If the defendant elects not to adduce evidence, then, whether or not the defendant has in the course of cross-examination of a witness for the plaintiff or otherwise put in a document, the plaintiff may, after the evidence on his behalf has been given, make a second speech closing his case and the defendant shall then state his case.

(4) If the defendant elects to adduce evidence, he may —

(*a*) after any evidence on the plaintiff's behalf has been given, open his case; and

(*b*) after the evidence on the defendant's behalf has been given, make a second speech closing his case.

(5) At the close of the defendant's case, the plaintiff may make a speech in reply.

(6) Where there are 2 or more defendants who appear separately or are separately represented, then —

(*a*) if none of them elects to adduce evidence, each of them shall state his case in the order in which his name appears on the record;

(*b*) if each of them elects to adduce evidence, each of them may open his case and the evidence on behalf of each of them shall be given in the order aforesaid and the speech of each of them closing his case shall be made in that order after the evidence on behalf of all the defendants has been given; and

(*c*) if some of them elect to adduce evidence and some do not, those who do not shall state their cases in the order aforesaid after the speech of the plaintiff in reply to the other defendants.

(7) Where the burden of proof of all the issues in the action lies on the defendant or, where there are 2 or more defendants and they appear separately or are separately represented, on one of the defendants, the defendant or that defendant, as the case may be, is entitled to begin, and in that case paragraphs (2) to (5) shall have effect in relation to, and as between, him and the plaintiff as if references to the plaintiff and the defendant were substituted with references to the defendant and the plaintiff respectively.

(8) Where, as between the plaintiff and any defendant, the party who would, but for this paragraph, be entitled to make the final speech raises any fresh point of law in that speech or cites in that speech any authority not previously cited, the opposite party may make a further speech in reply.

(9) Any further speech in reply referred to in paragraph (8) may only be made in relation to that point of law or that authority not previously cited, as the case may be.

Calling of witness

575.—(1) Where the Judge hearing the action considers it necessary for the just, expeditious or economical disposal of the action, the Judge may order that a person specified by the Judge be called as a witness at the trial of the action.

(2) The Judge may, when making an order under paragraph (1), give directions for —

(*a*) the filing of an affidavit by the specified person; and

(*b*) the examination and cross-examination of the specified person.

(3) The Judge shall determine —

(*a*) the sum to be paid to the specified person for each day during which that person is required to be present in Court;

(*b*) who is to pay that sum; and

(*c*) if the Judge orders 2 or more persons to pay that sum, how that sum is to be apportioned between those persons.

Inspection by Judge

576.—(1) The Judge by whom any cause or matter is tried may inspect any place or thing with respect to which any question arises in the cause or matter.

(2) All such expenses relating to the inspection shall be costs in the proceedings.

Death of party before giving of judgment

577. Where a party to any action dies after the finding of the issues of fact and before judgment is given, judgment may be given notwithstanding the death, but this provision is not to be taken as affecting the power of the Judge to make an order under rule 355(2) before giving judgment.

Records to be made by Registrar or proper officer of Court

578.—(1) The Registrar or the proper officer of the Court must record the time at which the trial commences and terminates, and the time actually occupied on each day on which the trial takes place.

(2) At the conclusion of the trial of any action, the Registrar or the said officer must record the judgment given by the Judge, and any order made by the Judge as to costs.

(3) The certificate of the Registrar or the said officer must be in Form 120 and the certificate in such form shall be sufficient authority for the proper officer in the Registry to enter judgment accordingly.

List of exhibits

579.—(1) The Registrar or the proper officer of the Court must —

(*a*) take charge of every document or object put in as an exhibit during the trial of any action; and

(*b*) mark or label every exhibit with a letter or letters indicating the party by whom the exhibit is put in or the witness by whom it is proved, and with a number, so that all the exhibits put in by a party, or proved by a witness, are numbered in one consecutive series.

(2) In paragraph (1), a witness by whom an exhibit is proved includes a witness in the course of whose evidence the exhibit is put in.

(3) The Registrar or the said officer must cause a list of all the exhibits in the action to be included in the certificate in Form 120.

(4) Any party may, on payment of the prescribed fee, have a copy of the list referred to in paragraph (3).

(5) The certificate in Form 120 when completed must be attached to the pleadings and shall form part of the record of the action.

(6) For the purpose of this rule, a bundle of documents may be treated and counted as one exhibit.

Custody of exhibit after trial

580.—(1) The Registrar must retain all exhibits in his custody duly marked or labelled so that in the event of an appeal to the Family Division of the High Court or the Court of Appeal, he may be able to produce the exhibits so marked or labelled at the hearing of the appeal.

(2) After the expiration of the time for appealing and if no appeal has been brought, or after the final disposal of the appeal, as the case may be, the exhibits are to be returned on request of the respective parties who put them in.

(3) Despite paragraph (2), where the claim or counterclaim is for money due under a negotiable instrument which is received in evidence, the negotiable instrument —

(*a*) must be retained in the Registry; and

(*b*) must not be delivered out of the custody of the Registry except upon an order of the Registrar.

Impounded documents

581.—(1) Documents impounded by order of the Court must not be delivered out of the custody of the Court except in compliance with an order made by a Judge on an

application.

(2) Despite paragraph (1), where the Attorney-General makes a written request in that behalf, documents so impounded must be delivered into his custody.

(3) No person may inspect any document impounded by order of the Court, while the document is in the custody of the Court, unless he has been authorised to do so by an order signed by a Judge.

Continuation of hearing by another Judge

582.—(1) When a Judge who has commenced the hearing of a cause or matter is unable through death, illness or other cause to conclude the hearing or trial, the Chief Justice or the Presiding Judge of the Family Justice Courts, as the case may be, may nominate another Judge to continue the hearing.

(2) Nothing in this rule shall prevent the Judge so nominated from recalling all or any of the witnesses or taking their evidence afresh.

Division 32 — Assessment of damages

Assessment of damages by Registrar

583.—(1) Where judgment is given for damages to be assessed and no provision is made by the judgment as to how they are to be assessed, the damages shall, subject to the provisions of this Division, be assessed by the Registrar.

(2) The party entitled to the benefit of the judgment must, within one month after the date of the judgment, apply to the Registrar for directions and the provisions of rule 482 are, with the necessary modifications, to apply.

(3) On hearing the application for directions, the Registrar may, in addition to making such orders as are necessary and appropriate under rule 482, give directions as to the time by which a notice of appointment for assessment of damages must be filed.

(4) Despite rule 907, the notice of appointment for assessment of damages must be served, not later than 7 days after it is filed, on the party against whom the judgment is given.

(5) If the party entitled to the benefit of the judgment fails to comply with paragraph (2), the Court may, on the application of the party against whom the judgment is given, proceed to assess damages or make such other order as it thinks just.

(6) The attendance of witnesses and the production of documents before the Registrar

in proceedings under this Division may be compelled by subpoena, and the provisions of Division 31 of this Part, with the necessary adaptations, apply in relation to those proceedings as they apply in relation to proceedings at the trial.

(7) Subject to any directions given by the Registrar pursuant to this rule, the party entitled to the benefit of the judgment must file a notice of appointment for assessment of damages within 6 months after the date of judgment.

(8) If a party entitled to the benefit of the judgment does not file the notice of appointment for assessment of damages within the prescribed period, any other party may apply for directions.

(9) A party shall not file a notice of appointment for assessment of damages by the Registrar pursuant to this rule unless directions for filing and exchange of affidavit evidence pursuant to rule 482 have been given or complied with, as the case may be.

Certificate of amount of damages

584. The Registrar in assessing damages, whether pursuant to this Division or otherwise, must certify the amount of the damages.

Default judgment against some but not all defendants

585. Where any judgment referred to in rule 583 is given in default of appearance or in default of defence, and the action proceeds against other defendants, the damages under the judgment must be assessed at the trial unless the Court otherwise orders.

Power to order assessment by Registrar or at trial

586.—(1) The Court may, in the case of any judgment referred to in rule 583, order —

(*a*) the assessment of the damages to be made by the Registrar; or

(*b*) the action to proceed to trial before a Judge as respects the damages.

(2) Where the Court orders the action to proceed to trial, rules 481 to 486 will, with the omission of so much of rule 486(1) requiring the parties to serve a notice specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application to the Court, in pursuance of which the Court makes the order, were a summons for directions under Division 20 of this Part.

Assessment of value

587. Rules 583 to 586 apply in relation to a judgment for the value of goods to be

assessed, with or without damages to be assessed, as they apply to a judgment for damages to be assessed, and references in those provisions to the assessment of damages are to be construed accordingly.

Assessment of damages to time of assessment

588. Where damages are to be assessed (whether under this Division or otherwise) in respect of any continuing cause of action, they shall be assessed down to the time of the assessment.

Division 33 — Evidence

General rule: Witnesses to be examined

589. Subject to these Rules and the Evidence Act (Cap. 97), and any other written law relating to evidence, any fact required to be proved at the trial of any action begun by writ by the evidence of witnesses must be proved by the examination of the witnesses in Court.

Evidence by affidavit

590.—(1) Without prejudice to the generality of rule 589, and unless otherwise provided by any written law or by these Rules, at the trial of an action commenced by writ —

(*a*) evidence-in-chief of a witness must be given by way of affidavit; and

(*b*) unless the Court otherwise orders or the parties to the action otherwise agree —

(i) such a witness must attend trial for cross-examination; and

(ii) in default of his attendance, his affidavit shall not be received in evidence except with the leave of the Court.

(2) In any cause or matter begun by originating summons and on any application made by summons, evidence must be given by affidavit unless any provision of these Rules otherwise provides or the Court otherwise directs.

(3) Despite paragraph (2), the Court may, on the application of any party, order a person making any such affidavit to attend for cross-examination.

(4) Where a person fails to comply with a Court order to attend for cross-examination under paragraph (3), the person's affidavit shall not be used as evidence without the

leave of the Court.

(5) Unless the Court otherwise orders, no deponent to an affidavit may at the trial or hearing of any cause or matter give evidence-in-chief, the substance of which is not contained in his affidavit except in relation to matters which have arisen after the filing of the affidavit.

(6) Despite paragraph (1), (2), (3), (4) or (5), the Court may, if it thinks just, order that evidence of a party or any witness or any part of such evidence be given orally at the trial or hearing of any cause or matter.

(7) Nothing in this rule shall make admissible evidence which if given orally would be inadmissible.

Evidence by particular facts

591.—(1) Without prejudice to rule 590, the Court may, at or before the trial of any action, order that evidence of any particular fact shall be given at the trial in such manner specified by the order.

(2) In particular, the Court may order that evidence of any particular fact may be given at the trial —

(*a*) by statement on oath of information or belief;

(*b*) by the production of documents or entries in books;

(*c*) by copies of documents or entries in books; or

(*d*) in the case of a fact which is or was a matter of common knowledge either generally or in a particular place, by the production of a specified newspaper which contains a statement of that fact.

Notice requirements to admit hearsay evidence

592.—(1) For the purposes of admitting statements in evidence under section 32(1) of the Evidence Act (Cap. 97), the notice requirements which must be complied with by a party to the proceedings pursuant to section 32(4)(*b*) of that Act are as follows:

(*a*) the party has previously served a notice in writing in Form 121 (in the case of a statement not made in a document) or Form 122 (in the case of a statement made in a document) on each of the other parties of his intention to introduce the evidence that is contained in the affidavit of evidence-in-chief of the witness through whom the statement is to be admitted;

(*b*) the notice must be served no later than 2 weeks after the service of the affidavit of evidence-in-chief of the witness through whom the statement is to be admitted, or at such other time as the Court may allow;

(*c*) the notice must state on which of the grounds in section 32(1) of the Evidence Act it is claimed that the statement is admissible;

(*d*) in the case of a statement not made in a document, the notice must state the manner in which it was made (whether orally or otherwise) and must also state —

(i) the time and place at which the statement was made;

(ii) the name of the maker of the statement and (unless he is dead) his address, if known;

(iii) if the maker of the statement is dead, the date of the maker's death, to the best of the information and belief of the party serving the notice;

(iv) the name and address of the person who heard or otherwise perceived the statement being made; and

(v) the substance of the statement or, if it was made orally and the actual words used in making it are material, the words used;

(*e*) in the case of a statement made in a document, the notice must contain or have attached to it a copy of that document or the relevant part of that document, and, if the information is not readily apparent from the document or the relevant part of the document, must also state —

(i) the matters mentioned in sub-paragraph (*d*)(i), (ii) and (iii);

(ii) if the maker of the document is different from the maker of the statement, the name of the maker of the document and (unless he is dead) his address, if known; and

(iii) if the maker of the document is dead, the date of the maker's death, to the best of the information and belief of the party serving the notice.

(2) Despite paragraph (1)(*e*), where a statement which is the subject of a notice referred to in paragraph (1) is made in a document contained in a list of documents served by the plaintiff (or defendant) pursuant to any order made by the Court under

rule 462, the notice need not contain or have attached to it a copy of that document.

Limitation of plans, etc., in evidence

593. No plan, photograph or model shall be receivable in evidence at the trial of an action unless —

(*a*) at least 21 days before the commencement of the trial the parties, other than the party producing it, have been given an opportunity to inspect it and to agree to its admission without further proof; or

(*b*) at or before the trial, the Court for special reasons otherwise orders.

Revocation or variation of orders under rules 590 to 593

594.—(1) The Court may, by a subsequent order and on sufficient cause being shown, revoke or vary any order under rules 590 to 593 (including an order made on appeal).

(2) The Court may make such a subsequent order at or before the trial.

Application to trials of issues, references, etc.

595. Rules 589 to 594 apply to trials of issues or questions of fact or law, references, inquiries and assessments of damages as they apply to the trial of actions.

Depositions when receivable in evidence at trial

596.—(1) A deposition taken in any cause or matter shall not be received in evidence at the trial of the cause or matter unless —

(*a*) the deposition was taken pursuant to an order under rule 615; and

(*b*) either —

(i) the party against whom the evidence is offered consents; or

(ii) it is proved to the satisfaction of the Court that the deponent is dead, beyond the jurisdiction of the Court, or unable from sickness or other infirmity to attend the trial.

(2) A party intending to use any deposition in evidence at the trial of a cause or matter must, at a reasonable time before the trial, give notice of his intention to do so to the other party.

(3) A deposition purporting to be signed by the person before whom it was taken shall

be receivable in evidence without proof of the signature being the signature of that person.

Court documents admissible or receivable in evidence

597.—(1) Copies of writs, records, pleadings and documents filed in the Registry shall be admissible in evidence in any cause or matter and between all parties to the same extent as the original would be admissible.

(2) Without prejudice to the provisions of any written law —

(*a*) every document purporting to be sealed with the seal of the Supreme Court, the Family Justice Courts or the State Courts shall be received in evidence without further proof; and

(*b*) any document purporting to be so sealed and to be a copy of a document filed in, or issued out of, the Supreme Court, the Family Justice Courts or the State Courts shall be deemed to be a copy of that document without further proof unless the contrary is shown.

Evidence of consent of new trustee to act

598. A document purporting to contain the written consent of a person to act as trustee and to bear his signature verified by some other person shall be evidence of such consent.

Evidence at trial may be used in subsequent proceedings

599. Any evidence taken at the trial of any cause or matter may be used in any subsequent proceedings in that cause or matter.

Order to produce document at proceeding other than trial

600.—(1) The Court may, at any stage in a cause or matter, order any person to attend any proceeding in the cause or matter and produce any document, to be specified or described in the order, if the production of the document appears to the Court to be necessary for the purpose of that proceeding.

(2) A person shall not be compelled by an order under paragraph (1) to produce any document at a proceeding in a cause or matter which he could not be compelled to produce at the trial of that cause or matter.

Form and issue of subpoena

601.—(1) A subpoena must be in Form 123.

(2) A subpoena is issued upon its being sealed by an officer of the Registry.

(3) The Registrar may revoke a subpoena on application by any person or on his own motion.

(4) Any party who is dissatisfied with any decision of the Registrar made under this rule may apply to a judge of the Family Division of the High Court or a District Judge, as the case may be, for a review of that decision.

(5) An application under this rule must be made by summons supported by an affidavit, within 14 days after that decision.

More than one name may be included in one subpoena to testify[5]

602. The names of 2 or more persons may be included in one subpoena to testify[5].

Subpoena to produce documents[1]

603.—(1) A subpoena to produce documents[1] must contain the name of one person only.

(2) Any person served with a subpoena to produce documents[1] must sufficiently comply with the subpoena if he causes the document to be produced without attending personally.

Amendment of subpoena

604. Where there is a mistake in any person's name or address in a subpoena and the subpoena has not been served, the party by whom the subpoena was issued may have the subpoena re-sealed in the correct form by filing an amended subpoena.

Service of subpoena

605.—(1) Unless the Court otherwise orders —

(*a*) a subpoena must be served personally; and

(*b*) the service shall not be valid unless effected within 12 weeks after the date of issue of the subpoena.

(2) A subpoena must not be served on any person outside the jurisdiction.

Duration of subpoena

606. A subpoena continues to have effect until the conclusion of the trial at which the attendance of the witness is required.

Court records

607.—(1) A subpoena to produce documents[1] shall not require an officer of the Supreme Court, of the Family Justice Courts or of any State Court to produce the records of the court.

(2) If the original of any record of a court or of any document filed in such court is for any special reason required, a request for its production may, on the application of the party requiring the record or document, be addressed by the Registrar to that court.

(3) No mark shall be placed upon any record or document produced under this rule.

Attendance of prisoner as witness or party

608.—(1) An application for an order under section 38 of the Prisons Act (Cap. 247) for the production before the Court of a person confined in prison may be made by ex parte summons supported by an affidavit in Form 124.

(2) Unless the Court otherwise orders, the costs of conveyance of the witness in safe custody to and from the Court must be paid in the first instance by the party on whose application the order was issued and shall be costs in the cause.

(3) An order for the production of such person must be in Form 125.

Tender of expenses

609. A witness shall not be compelled to attend on a subpoena unless a reasonable sum to cover his expenses of going to, remaining at, and returning from, Court is extended to him.

Affidavit of service of subpoena

610. An affidavit filed for the purpose of proving the service of a subpoena must state when, where, how and by whom the service was effected.

Division 34 — Official record of hearing

Record of hearing

611.—(1) An official record is to be made of every hearing and the official record of hearing must consist of the following:

(*a*) in a hearing where an audio recording system approved by the Registrar is used, the audio recording;

(*b*) in a hearing where an audio recording system is not used, the notes of hearing recorded in such manner as the Registrar or the Court may determine.

(2) Any party may apply for a copy or a transcript of the official record of hearing on payment of such fees as the Registrar may determine.

(3) An application for a copy of the official record of hearing consisting of an audio recording must be made in Form 126 and the grant of such an application is subject to the approval of the Court.

(4) The Court may, in approving an application under paragraph (3), impose such conditions or make or give such orders or directions in relation to the release and use of the copy of the audio recording as the Court thinks fit.

(5) The costs of producing a copy or a transcript of the official record of hearing may be claimed as an item of disbursement unless otherwise ordered by the Court.

Certification of transcript

612.—(1) The authenticity of a transcript of the official record of hearing is to be certified in such manner as the Registrar may determine.

(2) Where a transcript of the official record of any hearing has been certified in accordance with paragraph (1), the transcript may be received in evidence in any proceedings in the Supreme Court, the Family Justice Courts or the State Courts as a true record of that hearing.

Duration for which record is to be kept

613. Every official record of hearing must be kept for a period of 5 years.

Prohibition on unauthorised audio recording

614.—(1) No person shall make any audio recording of any hearing without the approval of the Court.

(2) A person who contravenes paragraph (1) is guilty of contempt of Court.

Division 35 — Evidence by deposition: Examiners of Court

Power to order depositions to be taken

615.—(1) The Court may, in any cause or matter where it appears necessary for the purposes of justice, make an order in Form 127 for the examination on oath of any person before a Judge or the Registrar or some other person, at any place.

(2) The Court may make an order under paragraph (1) on such terms (including, in particular, terms as to the giving of discovery before the examination takes place) as it thinks fit.

Where person to be examined is out of jurisdiction

616.—(1) Where the person in relation to whom an order under rule 615 is made is out of the jurisdiction, an application may be made —

(*a*) for an order in Form 128 under that rule for the issue of a letter of request to the judicial authorities of the country in which that person is to take, or cause to be taken, the evidence of that person; or

(*b*) if the government of that country allows a person in that country to be examined before a person appointed by the Court, for an order in Form 129 under that rule appointing a special examiner to take the evidence of that person in that country.

(2) An application may be made for the appointment as special examiner of a Singapore consul in the country in which the evidence is to be taken or his deputy —

(*a*) if there subsists with respect to that country a Civil Procedure Convention providing for the taking of the evidence of any person in that country for the assistance of proceedings in the High Court; or

(*b*) with the consent of the Minister.

(3) An application under this rule must be made in the Family Division of the High Court even if the proceedings are commenced in a Family Court or commenced in a State Court before the proceedings were continued in and dealt with by a Family Court.

Order for issue of letter of request

617.—(1) Paragraphs (2) to (8) apply where an order is made under rule 616 for the issue of a letter of request to the judicial authorities of a country to take, or cause to be taken, the evidence of any person in that country.

(2) The party obtaining the order must —

(*a*) prepare the letter of request in Form 130 with such variations as the order

may require; and

(*b*) file the letter in the Registry.

(3) If the evidence of the person to be examined is to be obtained by means of written questions, a copy of the interrogatories and cross-interrogatories to be put to him on examination must be filed with the letter of request.

(4) Unless the official language, or one of the official languages of the country in which the examination is to be taken is English, each document filed under paragraph (2) or (3) must be accompanied by a translation of the document —

(*a*) in the official language of that country; or

(*b*) if there is more than one official language of that country, in any one of those languages which is appropriate to the place in that country where the examination is to be taken.

(5) Every translation filed under paragraph (4) must be certified by the person making it to be a correct translation.

(6) The certificate under paragraph (5) must contain a statement of the full name of the person making the translation, of his address and of his qualifications for making the translation.

(7) The party obtaining the order must file in the Registry the documents mentioned in paragraphs (2) to (6) together with an undertaking in Form 131 signed by him or his solicitor to be responsible personally for all expenses incurred by the Minister in respect of the letter of request.

(8) On receiving due notification of the amount of the expenses referred to in paragraph (7), the party obtaining the order must —

(*a*) pay that amount to the office of that Minister; and

(*b*) produce a receipt for the payment to the proper officer of the Registry.

Enforcing attendance of witness at examination

618. Where an order has been made under rule 615 —

(*a*) for the examination of any person before the Registrar or some other person (called in this rule and rules 619 to 628 the examiner); or

(*b*) for the cross-examination before the examiner of any person who has made an affidavit which is to be used in any cause or matter,

the attendance of that person before the examiner and the production by him of any document at the examination may be enforced by subpoena in like manner as the attendance of a witness and the production by a witness of a document at a trial may be enforced.

Refusal of witness to attend, or to be sworn, etc.

619.—(1) If any person, having been duly summoned by subpoena to attend before the examiner, refuses or fails to attend or refuses to be sworn for the purpose of the examination or to answer any lawful question or produce any document in the examination, a certificate of his refusal or failure, signed by the examiner, must be filed in the Registry.

(2) Upon the filing of the certificate, the party by whom the attendance of that person was required may apply to the Court for an order requiring that person to attend, or to be sworn or to answer any question or produce any document, as the case may be.

(3) An application for an order under this rule may be made ex parte.

(4) If the Court makes an order under this rule it may order the person against whom the order is made to pay any costs occasioned by his refusal or failure.

(5) A person who wilfully disobeys any order made against him under paragraph (2) is guilty of contempt of Court.

Appointment of time and place for examination

620.—(1) The examiner must give the party on whose application the order for examination was made a notice appointing the place and time at which, subject to any application by the parties, the examination shall be taken.

(2) Such time referred to in paragraph (1) shall, having regard to the convenience of the persons to be examined and all the circumstances of the case, be as soon as practicable after the making of the order.

(3) The party to whom a notice under paragraph (1) is given must, on receiving the notice, forthwith give notice of the appointment to all the other parties.

Examiner to have certain documents

621. The party on whose application the order for examination was made must furnish the examiner with copies of such of the documents in the cause or matter as are necessary to inform the examiner of the questions at issue in the cause or matter.

Conduct of examination

622.—(1) Subject to any directions contained in the order for examination —

(*a*) any person ordered to be examined before the examiner may be cross-examined and re-examined; and

(*b*) the examination, cross-examination and re-examination of persons before the examiner are to be conducted in like manner as at the trial of a cause or matter.

(2) The examiner may put any question to any person examined as to the meaning of any answer made by that person or as to any matter arising in the course of the examination.

(3) The examiner may, if necessary, adjourn the examination from time to time.

Examination of additional witnesses

623.—(1) The examiner may, with the written consent of all the parties to the cause or matter, take the examination of any person in addition to those named or provided for in the order for examination.

(2) The examiner must annex such consent to the original deposition of that person.

Objection to questions

624.—(1) If any person being examined before the examiner objects to answer any questions put to him, or if objection is taken to any such question, that question, the ground for the objection and the answer to any such question to which objection is taken must be set out in the deposition of that person or in a statement annexed to the deposition.

(2) The validity of the ground for objecting to answer any such question or for objecting to any such question must be decided by the Court and not by the examiner, but the examiner must state to the parties his opinion thereon, and the statement of his opinion must be set out in the deposition or in a statement annexed to the deposition.

(3) If the Court decides against the person taking the objection, it may order him to pay the costs occasioned by his objection.

Taking of depositions

625.—(1) The deposition of any person examined before the examiner must be recorded under rule 611(1) but, subject to paragraph (2) and rule 624(1), the deposition

taken under rule 611(1)(*b*) need not set out every question and answer so long as it contains as nearly as may be the statement of the person examined.

(2) The examiner may direct the exact words of any particular question and the answer to the question to be set out in the deposition if that question and answer appear to him to have special importance.

(3) The official record of hearing or transcript of the official record of hearing, as the case may be, authenticated by the signature of the examiner before whom it was taken, must be sent by the examiner to and filed in the Registry.

Time taken by examination to be endorsed on depositions

626. Before sending any deposition to the Registry, the examiner must endorse on the deposition a statement signed by him of the time occupied in taking the examination and the fees to be paid in respect of the examination.

Special report by examiner

627.—(1) The examiner may make a special report to the Court with regard to —

(*a*) any examination taken before him; and

(*b*) the absence or conduct of any person at the examination.

(2) The Court may direct such proceedings to be taken, or make such order, on the report as it thinks fit.

Order for payment of examiner's fees

628.—(1) If the fees and expenses due to an examiner are not paid, the examiner may inform the Court of that fact.

(2) The Court may, on receiving such information, make an order against the party, on whose application the order for examination was made, to pay the examiner the fees and expenses due to the examiner in respect of the examination.

(3) An order under this rule shall not prejudice any determination on the taxation of costs or otherwise as to the party by whom the costs of the examination are ultimately to be borne.

Perpetuation of testimony

629.—(1) A witness must not be examined to perpetuate testimony unless an action has been begun for the purpose.

(2) Any person who would under the circumstances alleged by him to exist become entitled, upon the happening of any future event, to any honour, title, dignity or office, or to any estate or interest in any real or personal property, the right or claim to which cannot be brought to trial by him before the happening of such event, may begin an action to perpetuate any testimony which may be material for establishing such right or claim.

(3) No action to perpetuate the testimony of witnesses shall be set down for trial.

Division 36 — Court expert

Appointment of expert to report on certain question

630.—(1) In any cause or matter in which any question for an expert witness arises, the Court may at any time, on its own motion or on any party's application, appoint an independent expert or, if more than one such question arises, 2 or more such experts, to inquire and report upon any question of fact or opinion not involving questions of law or of construction.

(2) An expert appointed under this Division or under rule 555 shall be referred to as a court expert.

(3) Any court expert in a cause or matter, if possible, is to be a person agreed between the parties and, failing agreement, is to be nominated by the Court.

(4) The question to be submitted to the court expert and the instructions (if any) given to him is, failing agreement between the parties, to be settled by the Court.

(5) In this rule, "expert", in relation to any question arising in a cause or matter, means any person who has such knowledge or experience of or in connection with that question that his opinion on it would be admissible in evidence.

Report of court expert

631.—(1) The court expert must send his report to the Court, together with such number of copies of the report as the Court may direct.

(2) The Registrar must send the copies of the report to the parties or their solicitors.

(3) The Court may direct the court expert to make a further or supplemental report.

(4) Any part of a court expert's report which is not accepted by all the parties to the cause or matter in which it is made is to be treated as information furnished to the Court and be given such weight as the Court thinks fit.

Experiments and tests

632.—(1) If the court expert is of the opinion that an experiment or a test of any kind (other than one of a trifling character) is necessary to enable him to make a satisfactory report, he must —

(*a*) inform the parties or their solicitors as such; and

(*b*) if possible, make an arrangement with them as to the expenses involved, the persons to attend and other relevant matters.

(2) If the parties are unable to agree on any of the matters referred to in paragraph (1)(*b*), that matter is to be settled by the Court.

Cross-examination of court expert

633.—(1) Any party may, within 14 days after receiving a copy of the court expert's report, apply to the Court for leave to cross-examine the court expert on his report.

(2) The Court must, on an application under paragraph (1), make an order for the cross-examination of the expert by all the parties either —

(*a*) at the trial; or

(*b*) before an examiner at such time and place as may be specified in the order.

Remuneration of court expert

634.—(1) The court expert's remuneration must be fixed by the Court and shall include a fee for his report and a proper sum for each day during which he is required to be present either in Court or before an examiner.

(2) Without prejudice to any order providing for payment of the court expert's remuneration as part of the costs of the cause or matter, the parties shall be jointly and severally liable to pay the amount fixed by the Court for his remuneration.

(3) Where the appointment of a court expert is opposed, the Court may, as a condition of making the appointment, require the party applying for the appointment to give such security for the court expert's remuneration as the Court thinks fit.

Calling of expert witnesses

635.—(1) Where a court expert is appointed in a cause or matter, any party may, on giving to the other parties a reasonable time before the trial notice of his intention to do so, call one expert witness to give evidence on the question reported on by the court expert.

(2) Despite paragraph (1), a party may not call more than one such witness without the leave of the Court.

(3) The Court must not grant leave under paragraph (2) unless it considers the circumstances of the case to be exceptional.

Division 37 — Experts of parties

Limitation of expert evidence

636.—(1) The Court may, at or before the trial of any action, order that the number of expert witnesses who may be called at the trial be limited to such number as it may specify.

(2) A reference to an expert in this Division is a reference to an expert who has been instructed to give or prepare evidence for the purpose of court proceedings.

Expert's duty to Court

637.—(1) It is the duty of an expert to assist the Court on the matters within his expertise.

(2) This duty overrides any obligation to the person from whom the expert has received instructions or by whom the expert is paid.

Requirements of expert's evidence

638.—(1) Unless the Court otherwise directs, expert evidence is to be given in a written report —

(*a*) signed by the expert; and

(*b*) exhibited in an affidavit sworn to or affirmed by him testifying that the report exhibited is his and that he accepts full responsibility for the report.

(2) An expert's report must —

(*a*) give details of the expert's qualifications;

(*b*) give details of any literature or other material which the expert witness has relied on in making the report;

(*c*) contain a statement setting out the issues which he has been asked to consider and the basis upon which the evidence was given;

(*d*) if applicable, state the name and qualifications of the person who carried out any test or experiment which the expert has used for the report and whether or not such test or experiment has been carried out under the expert's supervision;

(*e*) where there is a range of opinion on the matters dealt with in the report —

(i) summarise the range of opinion; and

(ii) give reasons for his opinion;

(*f*) contain a summary of the conclusions reached;

(*g*) contain a statement of belief of correctness of the expert's opinion; and

(*h*) contain a statement that the expert understands that in giving his report, his duty is to the Court and that he complies with that duty.

Written questions to expert

639.—(1) A party may, with the leave of the Court, put to an expert instructed by another party written questions about his report.

(2) An application for leave to put questions to an expert about his report must be made within 14 days after service of the expert's affidavit exhibiting his report, or such longer period as the Court may allow.

(3) A party may put written questions under paragraph (1) only for the purpose of clarification of the report.

(4) An expert's answers to written questions put to him under paragraph (1) —

(*a*) must be in writing;

(*b*) must be provided within such time as the Court may direct; and

(*c*) is to be treated as part of the expert's report.

(5) Where a party has put a question to an expert instructed by another party in accordance with this rule and the expert does not answer the question or does not, in the opinion of the Court, answer the question adequately within the time provided, the Court may make such order as it thinks just, including all or any of the following:

(*a*) that the party who instructed the expert may not rely on the evidence of that expert;

(*b*) that the party who instructed the expert may not recover the costs of that

expert from any other party;

(*c*) that the expert is to answer or (as the case may be) provide a further and better answer to the question.

Discussions between experts

640.—(1) The Court may, at any stage, direct a discussion between experts for the purpose of requiring them to —

(*a*) identify the issues in the proceedings; and

(*b*) where possible, reach agreement on an issue.

(2) The Court may specify the issues which the experts must discuss.

(3) The Court may direct that following a discussion between the experts, they must prepare a statement for the Court showing —

(*a*) those issues on which they agree; and

(*b*) those issues on which they disagree and a summary of their reasons for disagreeing.

(4) The contents of the discussions between the experts shall not be referred to at the trial unless the parties agree.

(5) Where the experts reach agreement on an issue during their discussions, the agreement shall not bind the parties, unless the parties expressly agree to be bound by the agreement.

Concurrent expert evidence

641.—(1) The Court may order that some or all of the expert witnesses testify as a panel —

(*a*) after the completion of the testimony of the non-expert witnesses of each party; or

(*b*) at any other time that the Court may determine.

(2) The Court must not make an order under paragraph (1) unless the parties consent —

(*a*) to the production and examination of expert witnesses as a panel; and

(*b*) to a waiver of the right to submit no case to answer.

(3) Where the expert witnesses testify as a panel, they must give their views and may be directed by the Court to comment on the views of the other panel members and to make concluding statements.

(4) Expert witnesses in the panel may pose questions to one another with the leave of the Court.

(5) The Court may direct that the expert witnesses in the panel be cross-examined and re-examined in any sequence as the Court thinks fit, before or after they have testified as a panel.

(6) The Court may give any other directions as to the giving of evidence in the circumstances referred to in paragraph (1) as the Court thinks fit.

Division 38 — Affidavits

Form of affidavit

642.—(1) Subject to paragraphs (2), (3) and (4), every affidavit sworn in a cause or matter must be entitled in that cause or matter.

(2) Where a cause or matter is entitled in more than one matter, it is sufficient to state the first matter followed by the words "and other matters".

(3) Where a cause or matter is entitled in a matter or matters and between parties, that part of the title which consists of the matter or matters may be omitted.

(4) Where there is more than one plaintiff or more than one defendant, it is sufficient to state the full name of the first plaintiff or defendant (as the case may be) followed by the words "and others".

(5) Every affidavit —

(*a*) must be expressed in the first person;

(*b*) unless the Court otherwise directs, must —

(i) state the place of residence of the deponent;

(ii) state the deponent's occupation or, if he has none, his description; and

(iii) if the deponent is, or is employed by, a party to the cause or matter in which the affidavit is sworn, state that fact; and

(*c*) must be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject.

(6) Despite paragraph (5)(*b*)(i), in the case of a deponent who is giving evidence in a professional, business or other occupational capacity, the affidavit may, instead of stating the deponent's place of residence, state the address at which he works, the position he holds and the name of his firm or employer, if any.

(7) Dates, sums and other numbers must be expressed in an affidavit in figures and not in words.

(8) Every affidavit must be signed by the deponent and the attestation[6] must be completed and signed by the person before whom it is sworn.

(9) An attestation[6] must be in one of the forms in Form 132.

Affidavit by 2 or more deponents

643.—(1) Where an affidavit is made by 2 or more deponents, the names of the persons making the affidavit must be inserted in the attestation[6].

(2) Despite paragraph (1), if the affidavit is sworn by both or all the deponents at one time before the same person, it is sufficient to state that the affidavit was sworn by both (or all) of those deponents.

(3) When the oath is administered to deponents in different languages, there shall be a separate attestation[6] for those sworn in each language.

Affidavit by illiterate or blind person

644.—(1) Where it appears to the person administering the oath that the deponent is illiterate or blind, that person must certify in the attestation[6] that —

(*a*) the affidavit was read to the deponent in that person's presence;

(*b*) the deponent seemed perfectly to understand it; and

(*c*) the deponent made his signature or mark in that person's presence.

(2) The affidavit referred to in paragraph (1) shall not be used in evidence without such a certificate unless the Court is otherwise satisfied that it was read to and appeared to be perfectly understood by the deponent.

Use of defective affidavit

645. An affidavit may, with the leave of the Court, be filed or used in evidence despite any irregularity in the form of the affidavit.

Contents of affidavit

646.—(1) Subject to the other provisions of these Rules, an affidavit may contain only such facts as the deponent is able of his own knowledge to prove.

(2) An affidavit sworn for the purpose of being used in interlocutory proceedings may contain statements of information or belief with the sources and grounds of the information or belief.

Scandalous, etc., matter in affidavits

647. The Court may order any matter, in an affidavit, which is scandalous, irrelevant or otherwise oppressive to be struck out.

Alterations in affidavits

648.—(1) An affidavit which has in the body or the attestation[6] any interlineation, erasure or other alteration may not be filed or used in any proceeding without the leave of the Court unless the person before whom the affidavit was sworn —

(*a*) has initialled the alteration; and

(*b*) in the case of an erasure, has re-written in the margin of the affidavit any words or figures written on the erasure and has signed or initialled them.

(2) No alteration may be made in any affidavit after it has been filed.

(3) Where an alteration is made in an affidavit before the affidavit is filed, the affidavit must be re-sworn with a further attestation[6] commencing with the word "re-sworn", added.

Affidavit not to be sworn before solicitor of party, etc.

649. No affidavit shall be sufficient if sworn before a commissioner for oaths who is a solicitor of the party on whose behalf the affidavit is to be used or before any member of that solicitor's firm.

Filing of affidavits

650.—(1) Except as otherwise provided by these Rules, every affidavit must be filed in the Registry.

(2) Every affidavit must be endorsed with a note showing on whose behalf it is filed and the dates of swearing and filing.

(3) An affidavit which is not so endorsed may not be filed or used without the leave of the Court.

Use of original affidavit or copy

651.—(1) Subject to paragraph (2), an original affidavit may be used in proceedings with the leave of the Court, notwithstanding that it has not been filed in accordance with rule 650.

(2) An original affidavit may not be used in any proceedings unless it has previously been stamped with the appropriate fee.

(3) Where an original affidavit is used then, unless the party whose affidavit it is undertakes to file it, he must immediately after it is used file it with the proper officer in the Registry.

(4) Where an affidavit has been filed, a copy of the affidavit may be used in any proceedings.

Document to be used in conjunction with affidavit to be exhibited to it

652.—(1) Any document to be used in conjunction with an affidavit must be exhibited and a copy of the document annexed to the affidavit, unless the Court otherwise orders.

(2) Any exhibit to an affidavit must be identified by a certificate of the person before whom the affidavit is sworn.

(3) The certificate must be entitled in the same manner as the affidavit and rule 642(1) to (4) applies accordingly.

Affidavit taken outside Singapore admissible without proof of seal, etc.

653. A document purporting to have affixed or impressed on it or subscribed to it the seal or signature of a court, judge, notary public or person having authority to administer oaths in any country in testimony of an affidavit being taken before it or him may be admitted in evidence without proof of the seal or signature being the seal or signature of that court, judge, notary public or person.

Division 39 — Disability

Definitions

654. In this Division, unless the context otherwise requires —

"Act" means the Mental Capacity Act (Cap. 177A);

"person lacking capacity" means a person who lacks capacity within the meaning of the Mental Capacity Act in relation to matters concerning his property and affairs;

"person under disability" means, subject to rule 3(4) —

(*a*) a person who is a minor; or

(*b*) a person lacking capacity.

Application for leave to institute proceedings

655.—(1) The jurisdiction of the Court to grant leave under section 25(2) of the Mental Health (Care and Treatment) Act (Cap. 178A) to bring proceedings against a person may be exercised only by a Judge in person.

(2) The application must be supported by an affidavit setting out the grounds on which such leave is sought and any facts necessary to substantiate those grounds.

Person under disability must sue, etc., by litigation representative[3]

656.—(1) A person under disability may not bring, make a claim in, defend, make a counterclaim in, or intervene in any proceedings, or appear in any proceedings under a judgment or an order notice of which has been served on him, except by his litigation representative[3].

(2) Subject to these Rules —

(*a*) anything which in the ordinary conduct of any proceedings is required by a provision of these Rules to be done by a party to the proceedings must, if the party is a person under disability, be done by his litigation representative[3]; and

(*b*) anything which in the ordinary conduct of any proceedings is authorised by a provision of these Rules to be done by a party to the proceedings may, if the party is a person under disability, be done by his litigation representative[3].

(3) A litigation representative[3] of a person under disability must act by a solicitor.

Appointment of litigation representative[3]

657.—(1) This rule does not apply in relation to a probate action.

(2) Except as provided by paragraph (4) or (5) or by rule 660, an order appointing a person litigation representative[3] of a person under disability is not necessary.

(3) Where a person is authorised under the Act to conduct legal proceedings in the name of a person lacking capacity or on his behalf, that person is entitled to be litigation representative[3] of the person lacking capacity in any proceedings to which his authority extends unless, in a case to which paragraph (4) or (5) or rule 660 applies, some other person is appointed by the Court under that paragraph or rule to be litigation representative[3] of the person lacking capacity in those proceedings.

(4) Where a person has been or is a litigation representative[3] of a person under disability in any proceedings, no other person is entitled to act as such litigation representative[3] of the person under disability in those proceedings unless the Court makes an order appointing him such litigation representative[3] in substitution for the person previously acting in that capacity.

(5) Where, after any proceedings have been begun, a party to the proceedings becomes a person lacking capacity, an application must be made to the Court for the appointment of a person to be litigation representative[3] of that party.

(6) Except where the litigation representative[3] of a person under disability has been appointed by the Court —

(*a*) the name of any person must not be used in a cause or matter as litigation representative[3] of a person under disability;

(*b*) an appearance may not be entered in a cause or matter for a person under disability; and

(*c*) a person under disability is not entitled to appear by his litigation representative[3] on the hearing of a summons which has been served on him,

until the documents listed in paragraph (7) have been filed in the Registry.

(7) For the purposes of paragraph (6), the documents are as follows:

(*a*) a written consent in Form 133 to be litigation representative[3] of the person under disability in the cause or matter in question given by the person

proposing to be such litigation representative[3];

(*b*) where the person proposing to be such litigation representative[3] of the person under disability, being a person lacking capacity, is authorised under the Act to conduct the proceedings in the cause or matter in question in the name of the person lacking capacity or on his behalf, a copy, sealed with the seal of the Court, of the order or other authorisation made or given under the Act by virtue of which he is so authorised;

(*c*) except where the person proposing to be such litigation representative[3] of the person under disability, being a person lacking capacity, is authorised as mentioned in sub-paragraph (*b*), a certificate in Form 134 made by the solicitor for the person under disability certifying —

(i) that he knows or believes, as the case may be, that the person to whom the certificate relates is a minor or a person lacking capacity, giving (in the case of a person lacking capacity) the grounds of his knowledge or belief;

(ii) where the person under disability is a person lacking capacity, that there is no person authorised as aforesaid; and

(iii) that the person so named has no interest in the cause or matter in question adverse to that of the person under disability.

Appointment of litigation representative[3] in probate action

658.—(1) This rule applies in relation to a probate action to which a person under disability is a party or in which he intervenes or is cited under rule 256.

(2) Where the person under disability is a person lacking capacity and a person is authorised under the Act to conduct legal proceedings in the name of the person lacking capacity or on his behalf, the person so authorised is entitled to be litigation representative[3] of the person lacking capacity in any probate action to which his authority extends.

(3) Despite paragraph (2), the person authorised shall not be entitled to be litigation representative[3] of a person lacking capacity in a probate action if some other person has been appointed by the Court under rule 660 to be litigation representative[3] of the person lacking capacity in that action.

(4) Where the person under disability is a minor who is not a person lacking capacity and he has a statutory guardian or a testamentary guardian who is qualified to be his litigation representative[3] by virtue of paragraph (9), that guardian is entitled to be litigation representative[3] of the minor in a probate action.

(5) Where the person under disability is a minor who has attained the age of 16 years and is not a person lacking capacity, and there is no person qualified by virtue of paragraph (4) to be his litigation representative[3], the minor may appoint as his litigation representative[3] a person who is qualified to be such litigation representative[3] by virtue of paragraph (9) and who is one of his next-of-kin or, where the minor is a married woman, one of her next-of-kin or her husband.

(6) Where a minor appoints a person under paragraph (5) to be his litigation representative[3] in a probate action, that person may be litigation representative[3] of any other minor in that action provided that —

(*a*) the other minor is below 16 years old;

(*b*) he is not a person lacking capacity; and

(*c*) his interest in the action is the same as that of the minor making the appointment.

(7) Where there is no person qualified by virtue of paragraph (2) or (4), as the case may be, to be litigation representative[3] of a person under disability in a probate action and that person is either not entitled under paragraph (5) to appoint a person to be his litigation representative[3] or, being so entitled, makes no appointment under paragraph (5), the litigation representative[3] of the person under disability in the action shall be one of his next-of-kin or other person as the Court may appoint.

(8) An application under paragraph (7) for the appointment of a litigation representative[3] of a person under disability may be made by ex parte summons and must be supported by an affidavit showing —

(*a*) that there is no person entitled to be such litigation representative[3] by virtue of paragraph (2) or (4), or appointed as such under paragraph (5), as the circumstances require;

(*b*) if such be the case, that the person proposed as litigation representative[3] is a next-of-kin of the person under disability; and

(*c*) that the person proposed as litigation representative[3] is willing and a

proper person to act as such and has no interest in the action adverse to that of the person under disability.

(9) A person is qualified to be litigation representative[3] of a person under disability if he is competent and willing to act as such and has no interest in the action in question adverse to that of the person under disability.

Further provisions relating to probate action

659.—(1) Where a party to a probate action is a person under disability, then, unless the litigation representative[3] of that person has been appointed such litigation representative[3] by the Court, the writ beginning the action (where that person is a plaintiff) must not be issued, and an appearance must not be entered for him in the action (where he is a defendant, intervener, or person cited under rule 256) without the consent of the Registrar.

(2) On making an application for a consent under paragraph (1) in relation to a minor who is not a person lacking capacity, the applicant must produce to the Registrar —

(*a*) where the litigation representative[3] of the minor is his statutory guardian or testamentary guardian, an affidavit deposing to the guardianship and age of the minor and showing that the guardian has no interest in the action adverse to that of the minor;

(*b*) where the litigation representative[3] of the minor is a person appointed under rule 658(5) —

(i) the appointment;

(ii) a written consent to act as litigation representative[3] given by the person so appointed; and

(iii) an affidavit deposing to the age of the minor and containing the evidence which would be required by rule 658(8) to be contained in an affidavit in support of an application for the appointment of that person as litigation representative[3] by the Court.

(3) On the making of an application for consent under paragraph (1) in relation to a person lacking capacity, the applicant must produce to the Registrar a copy, sealed with the seal of the Court, of the order or other authorisation made or given under the Act by

virtue of which the litigation representative[3] of the person lacking capacity is authorised to conduct legal proceedings in the probate action in question in the name of the person lacking capacity or on his behalf.

Appointment of litigation representative[3] where person under disability does not appear

660.—(1) Where —

(*a*) in an action against a person under disability begun by writ, or by originating summons, no appearance is entered in the writ action for that person; or

(*b*) the defendant to an action serves a defence and counterclaim on a person under disability who is not already a party to the action, and no appearance is entered for that person,

an application for the appointment by the Court of a litigation representative[3] of that person must be made by the plaintiff or defendant, as the case may be, after the time limited (as respects that person) for appearing and before proceeding further with the action or counterclaim.

(2) Where a party to an action has served on a person under disability who is not already a party to the action a third party notice within the meaning of Division 10 of this Part and no appearance is entered for that person to that notice, an application for the appointment by the Court of a litigation representative[3] of that person must be made by that party after the time limited (as respects that person) for appearing and before proceeding further with the third party proceedings.

(3) Where in any proceedings against a person under disability begun by originating summons, that person does not appear by a litigation representative[3], the Court may, at the hearing of the summons —

(*a*) appoint a litigation representative[3] of that person in the proceedings; or

(*b*) direct that an application be made by the applicant, for the appointment of such a litigation representative[3].

(4) At any stage in the proceedings under any judgment or order, notice of which has been served on a person under disability, the Court may, if no appearance is entered for that person in a writ action, or in any other case, appoint a litigation representative[3] of that person in the proceedings or direct that an application be made for the appointment

of such a litigation representative[3].

(5) An application under paragraph (1) or (2) must be supported by evidence proving —

(*a*) that the person to whom the application relates is a person under disability;

(*b*) that the person proposed as litigation representative[3] is willing and a proper person to act as such and has no interest in the proceedings adverse to that of the person under disability;

(*c*) that the writ, originating summons, defence and counterclaim or third party notice, as the case may be, was duly served on the person under disability; and

(*d*) subject to paragraph (6), that notice of the application was, after the expiration of the time limited for appearing and at least 7 days before the day fixed for hearing, so served on him.

(6) If the Court so directs, notice of an application under paragraph (1) or (2) need not be served on a person under disability.

(7) An application for the appointment of a litigation representative[3] made in compliance with a direction of the Court given under paragraph (3) or (4) must be supported by evidence proving the matters referred to in paragraph (5)(*b*).

Application to discharge or vary certain orders

661. An application to the Court on behalf of a person under disability served with an order made ex parte under rule 355 for the discharge or variation of the order must be made —

(*a*) if a litigation representative[3] is acting for that person in the cause or matter in which the order is made, within 14 days after the service of the order on that person; or

(*b*) if there is no litigation representative[3] acting for that person in that cause or matter, within 14 days after the appointment of such a litigation representative[3] to act for him.

Admission not to be implied from pleading of person under disability

662. Despite anything in rule 399(1), a person under disability shall not be taken to admit the truth of any allegation of fact made in the pleading of the opposite party by

reason only that he has not traversed it in his pleadings.

Discovery and interrogatories

663. Divisions 19, 21 and 22 of this Part apply to a person under disability and to his litigation representative[3].

Compromise, etc., by person under disability

664. Where in any proceedings money is claimed by or on behalf of a person under disability, no settlement, compromise or payment and no acceptance of money paid into Court, whenever entered into or made, shall so far as it relates to that person's claim be valid without the approval of the Court.

Approval of settlement

665.—(1) Where, before proceedings in which a claim for money is made by or on behalf of a person under disability (whether alone or in conjunction with any other person) are begun, an agreement is reached for the settlement of the claim, and it is desired to obtain the Court's approval to the settlement, then despite anything in rule 17, the claim may be made in proceedings begun by originating summons and in the summons an application may also be made for —

(*a*) the approval of the Court to the settlement and such orders or directions as may be necessary to give effect to it or as may be necessary or expedient under rule 666; or

(*b*) alternatively, directions as to the further prosecution of the claim.

(2) Where in proceedings under this rule a claim is made under section 20 of the Civil Law Act (Cap. 43), the originating summons must include the particulars required under that Act.

(3) In this rule, "settlement" includes a compromise.

Control of money recovered by person under disability

666.—(1) Where in any proceedings —

(*a*) money is recovered by or on behalf of, or adjudged or ordered or agreed to be paid to, or for the benefit of, a person under disability; or

(*b*) money paid into Court is accepted by or on behalf of a plaintiff who is a person under disability,

the money must be dealt with in accordance with directions given by the Court.

(2) The Court, in giving directions, may provide that the money or any part of it shall be paid into Court and invested or otherwise dealt with.

(3) Without prejudice to paragraphs (1) and (2), the Court may —

(*a*) give any general or special directions as it thinks fit; and

(*b*) in particular, give directions —

(i) on how the money is to be applied or dealt with; and

(ii) as to any payment to be made, either directly or out of the amount paid into Court, to the plaintiff, or to the litigation representative[3] in respect of moneys paid or expenses incurred for or on behalf or for the benefit of the person under disability or for his maintenance or otherwise for his benefit or to the plaintiff's solicitor in respect of costs.

(4) Where money is paid into Court to be invested or otherwise dealt with, pursuant to directions given under this rule, the money (including any interest on it) must not be paid out and any securities in which the money is invested, or the dividends thereon, must not be sold, transferred or paid out of Court, except in accordance with an order of the Court.

(5) Paragraphs (1) to (4) apply in relation to a counterclaim by or on behalf of a person under disability as if for references to a plaintiff there were substituted references to a defendant.

Apportionment by Court for proceedings under Civil Law Act

667.—(1) Where a single sum of money is paid into Court under rule 435 in satisfaction of causes of action arising under the Civil Law Act (Cap. 43) and that sum is accepted, the money must be apportioned between the different causes of action by the Court —

(*a*) when giving directions for dealing with it under rule 666 (if that rule applies); or

(*b*) when authorising its payment out of Court.

(2) Where a claim under the Civil Law Act is made in an action by or on behalf of more than one person, a sum in respect of damages is adjudged or ordered or agreed to be paid in satisfaction of the claim, or a sum of money paid into Court under rule 435 is accepted in satisfaction of the cause of action under the Civil Law Act, it must be apportioned between those persons by the Court.

(3) The reference in paragraph (2) to a sum of money paid into Court is to be construed as including a reference to part of a sum so paid, being the part apportioned by the Court under paragraph (1) to the cause of action under the Civil Law Act.

Service of certain documents on person under disability

668.—(1) This rule applies where in any proceedings a document is required to be served personally on any person and that person is a person under disability.

(2) Subject to this rule and to rules 477(4) and 492(3), the document must be served —

(*a*) in the case of a minor who is not also a person lacking capacity —

(i) on his father or guardian; or

(ii) if he has no father or guardian, on the person with whom the minor resides or in whose care he is; and

(*b*) in the case of a person lacking capacity —

(i) on the person (if any) who is authorised under the Act to conduct in the name of the person lacking capacity or on his behalf the proceedings in connection with which the document is to be served; or

(ii) if there is no person so authorised, on the person with whom the person lacking capacity resides or in whose care he is in.

(3) The document must be served in the manner required by these Rules with respect to the document in question.

(4) Despite anything in paragraphs (2) and (3), the Court may order that a document which has been, or is to be, served on the person under disability or on a person other than a person mentioned in those paragraphs shall be deemed to be duly served on the person under disability.

(5) A judgment or order requiring a person to do, or refrain from doing any act, a summons for the committal of any person, and a subpoena against any person, must, if that person is a person under disability, be served personally on him unless the Court otherwise orders.

(6) Paragraph (5) does not apply to an order for interrogatories or for discovery or inspection of documents.

Delivering judgments

669.—(1) Subject to paragraphs (4), (5) and (6), where a cause or matter is heard in Court, the judgment in that cause or matter must be pronounced in Court, either —

(*a*) on the conclusion of the hearing; or

(*b*) on a subsequent day.

(2) Where judgment is to be pronounced on a subsequent day, the Court must notify the parties of the day on which the judgment is to be pronounced.

(3) Subject to paragraphs (4), (5) and (6), where a cause or matter is heard in Chambers, the Judge hearing it may pronounce the judgment in Chambers, or, if he thinks fit, in Court.

(4) Whenever a written judgment is to be delivered —

(*a*) the Court may deliver it by directing copies of it to be handed to the parties or their solicitors upon payment of the appropriate charges for it; and

(*b*) the original written judgment signed by the Judge must be filed.

(5) When a Judge who has heard any cause or matter is unable through death, illness or other cause to pronounce judgment, the judgment written by him may be pronounced by any other Judge in Court or in Chambers, as the case may be.

(6) Where paragraph (5) applies —

(*a*) the other Judge may deliver the written judgment in Chambers by directing copies of it to be handed to the parties or their solicitors upon payment of the appropriate charges for it; and

(*b*) the original written judgment signed by the Judge who wrote it must be filed.

Judgment, etc., without attendance of any party

670.—(1) This rule applies to —

(*a*) proceedings in the Family Division of the High Court which are heard before one judge or the Registrar; and

(*b*) proceedings in a Family Court.

(2) In any proceedings referred to in paragraph (1), the Court may, with the consent of all the parties to those proceedings, give a judgment, or make an order, a decision or a determination, on any matter in those proceedings without the attendance of any party to those proceedings.

(3) The Court may, before giving a judgment, or making an order, a decision or a determination under paragraph (2) —

(*a*) invite the parties to make further submissions on the matter, in such manner and within such time as the Court thinks fit; and

(*b*) give such other directions as may be necessary to enable the Court to give a judgment, or make an order, a decision or a determination, under that paragraph.

Judgment in proceedings heard in camera

671.—(1) Subject to paragraph (2), where proceedings are heard in camera pursuant to any written law, any judgment pronounced or delivered in such proceedings shall not be available for public inspection.

(2) The Court may, on such terms as it may impose, allow a person who is not a party to the proceedings to inspect or to be furnished with a copy of such judgment.

Inspection of judgment

672.—(1) Subject to rule 671, a copy of every judgment delivered in any cause or matter heard in open Court shall —

(*a*) be available for public inspection upon payment of the prescribed fee; and

(*b*) be given to any member of the public upon payment of the appropriate charges.

(2) Rule 891 does not apply to this rule.

Form of judgment, etc.

673.—(1) Form 74 must be used for a judgment of the type found in that form.

(2) Where a party enters a judgment, he is entitled to state in the judgment the manner in which the writ or originating process, by which the cause or matter in question was begun, was served.

(3) An order must be marked with the name of the Judge or the Registrar by whom it was made and must be sealed.

Time for doing act where judgment, etc., requires act to be done

674.—(1) Subject to paragraph (2), a judgment or an order which requires a person to do an act must specify the time after service of the judgment or order, or some other time, within which the act is to be done.

(2) Where the act which any person is required by any judgment or order to do is to pay money to some other person, give possession of any immovable property or deliver any movable property, a time within which the act is to be done need not be specified in the judgment or order.

(3) Despite paragraph (2), the Court may specify such a time to do the act and to adjudge or order accordingly.

Date from which judgment or order takes effect

675.—(1) A judgment or an order of the Court takes effect from the day of its date.

(2) Such a judgment or an order shall be dated as of the day on which it is pronounced, given or made.

(3) Despite paragraph (2), the Court may order a judgment or an order to be dated as of some other earlier or later date.

Preparation of judgment or order

676.—(1) Where the party in whose favour a judgment or an order is given or made is represented by a solicitor (called in this rule the first solicitor), a copy of the draft must be submitted for approval to the solicitor (if any) of the other party (called in this rule the second solicitor).

(2) The second solicitor must, within 2 days after receipt of the judgment or order, or within such further time as may be allowed by the Registrar, return to the first solicitor the copy of the draft with the second solicitor's signed consent or any required amendments to the copy.

(3) When the second solicitor fails to return the copy of the draft within the time prescribed, he shall be deemed to have consented to the terms of the draft.

(4) Where the first and second solicitors cannot agree on the draft, any one of them may obtain an appointment before the Registrar, with notice given to the other solicitor, to settle the terms of the judgment or order.

(5) Every judgment or order is to be settled by the Registrar, except that where a judgment or an order is made by a Judge, any party may require the matter in dispute to

be referred to the Judge for his determination.

(6) Where the other party has no solicitor, the draft must be submitted to the Registrar.

Orders required to be drawn up

677.—(1) Subject to paragraph (2), every order of the Court must be drawn up unless the Court otherwise directs.

(2) An order —

(*a*) which —

(i) extends the period within which a person is required or authorised by these Rules, or by any judgment, order or direction, to do any act; or

(ii) grants leave for the doing of any of the acts mentioned in paragraph (3); and

(*b*) which neither imposes any special terms nor includes any special directions other than a direction as to costs,

need not be drawn up unless the Court otherwise directs.

(3) For the purposes of paragraph (2)(*a*)(ii), the acts are —

(*a*) the issue of any writ, other than a writ of summons which is required for service out of the jurisdiction;

(*b*) the amendment of an originating process or a pleading;

(*c*) the filing of any documents; and

(*d*) any act to be done by an officer of the Court other than a solicitor.

Drawing up and entry of judgments and orders

678.—(1) Where a judgment given in a cause or matter is presented for entry in accordance with this rule at the Registry, the party seeking to have such judgment entered must draw up the judgment and present it to the proper officer of the Registry.

(2) Upon receiving the judgment, the officer of the Registry must file the judgment and return a duplicate of it to the party who presented the judgment.

(3) Every order required to be drawn up must be drawn up by the party in whose

favour the order has been made.

(4) Where the party in whose favour the order has been made fails to draw up the order within 7 days after it is made, any other party affected by the order may draw it up.

(5) When the order is drawn up, it must be —

(*a*) produced at the Registry, together with a copy of it;

(*b*) passed by the proper officer and sealed with the seal of the Family Justice Courts; and

(*c*) returned to the party producing the order.

(6) The copy of the order drawn up must be filed in the Registry.

Duplicates of judgments and orders

679.—(1) Not less than one clear day after a judgment or an order has been filed, a duplicate of the judgment or order shall be supplied by the Registry, on payment of the prescribed fee, to any party in the proceedings.

(2) The duplicate of a judgment or an order —

(*a*) may be a carbon copy of the original; or

(*b*) if the Registrar so directs, for every judgment or order of such class as he directs, shall be a photographic copy or a copy produced by type lithography or other similar process.

(3) Before a duplicate of a judgment or an order is issued —

(*a*) it must be sealed; and

(*b*) a note must be made on the duplicate of the judgment or order of the number of the judgment, the date of entry and the amount of any stamp on the original.

(4) Where any provision of these Rules or any order of the Court requires the original judgment or order to be produced or served, it is sufficient to produce or serve the duplicate.

(5) A further duplicate of a judgment or an order may, on payment of the prescribed fee, be issued if the Registrar is satisfied that the duplicate has been lost and that the applicant for a further duplicate is entitled to it.

(6) A judgment or an order shall not be amended except on production of the duplicate of the judgment or order last issued, and the amendment sealed, under the

Registrar's direction.

Interest on judgment debts

680.—(1) Except as otherwise agreed between the parties, every judgment debt shall carry interest —

(*a*) at the rate of 6% per annum or at such other rate as the Chief Justice may from time to time direct; or

(*b*) at such other rate as the Court directs, not exceeding the rate referred to in sub-paragraph (*a*).

(2) Such interest is to be calculated from the date of judgment until the judgment is satisfied.

(3) This rule does not apply when an order has been made under section 43(1) or (2) of the State Courts Act (Cap. 321).

Division 41 — Accounts and inquiries

Summary order for account

681.—(1) Where a writ is endorsed with a claim for an account or a claim which necessarily involves taking an account, the plaintiff may, at any time after the defendant has entered an appearance or after the time limited for appearing, apply for an order under this rule.

(2) A defendant to an action begun by writ who has served a counterclaim, which includes a claim for an account or a claim which necessarily involves taking an account, on —

(*a*) the plaintiff;

(*b*) any other party; or

(*c*) any person who becomes a party by virtue of such service,

may apply for an order under this rule.

(3) An application under this rule must be made by summons and, if the Court so directs, must be supported by affidavit or other evidence.

(4) The Court may on hearing the application and unless satisfied by the defendant by affidavit or otherwise that there is some preliminary question to be tried —

(*a*) order that an account be taken; and

(*b*) order that any amount certified on taking the account to be due to either party be paid to that party within a time specified in the order.

Court may direct taking of accounts, etc.

682.—(1) The Court may, on an application made by summons at any stage of the proceedings in a cause or matter, direct any necessary accounts or inquiries to be taken or made in Form 135.

(2) Every direction for the taking of an account or the making of an inquiry must be numbered in the judgment or order so that, as far as may be, each distinct account and inquiry may be designated by a number.

Directions as to manner of taking account

683.—(1) Where the Court orders an account to be taken, it may by the same or a subsequent order give directions with regard to the manner in which the account is to be taken or vouched or the inquiry is to be made.

(2) Without prejudice to the generality of paragraph (1), the Court may direct that in taking the account the relevant books of account shall be evidence of the matters contained in those books with liberty to the parties interested to object to the account as they think fit.

(3) Where the Court orders an account to be taken and the order does not provide for the manner in which the account is to be taken, the party entitled to the account must, within one month after the date of the order, apply to the Registrar for directions and the provisions of rule 482 will, with the necessary modifications, apply.

(4) On hearing the application under paragraph (3), the Registrar may, in addition to making such orders as are necessary and appropriate, give directions as to the time by which the account referred to in rule 684, a notice referred to in rule 685 or a notice of appointment for the taking of the account is to be filed.

(5) Despite rule 907, a notice of appointment for the taking of the account referred to in paragraph (4) must be served on the party making the account not later than 7 days after it has been filed.

(6) If the party entitled to the account does not file the application for directions within the period referred to in paragraph (3), any other party may do so or apply for the Court to exercise its powers under rule 688.

Account to be made, verified, etc.

684.—(1) Where an account has been ordered to be taken, the accounting party must make out his account and, unless the Court otherwise directs, verify it by an affidavit exhibiting the account.

(2) The items on each side of the account must be numbered consecutively.

(3) Unless the order for the taking of the account otherwise directs, the accounting party must —

(*a*) file the account with the Registry; and

(*b*) at the same time, notify the other parties that he has filed the account and of the filing of any affidavit verifying the account and of any supporting affidavit.

Notice to be given of alleged omissions, etc., in account

685. Any party who seeks to charge an accounting party with an amount beyond that which he has by his account admitted to have received or alleges that any item in his account is erroneous in respect of amount or in any other respect must give the accounting party notice of the error stating, so far as he is able —

(*a*) the amount sought to be charged, with brief particulars of the amount; or

(*b*) as the case may be, the grounds for alleging that the item is erroneous.

Filing documents prior to taking of accounts or making of inquiries

686.—(1) The following documents must be filed not less than 5 days before the taking of an account or making of an inquiry:

(*a*) the originals of the affidavits of the evidence-in-chief of all witnesses, including the affidavit verifying the accounts;

(*b*) a bundle of all the documents that will be relied on or referred to in the course of the taking of the account or making of the inquiry by any party, including any documents that are exhibited to the affidavits of the evidence-in-chief of all witnesses.

(2) Each party must file the affidavits of evidence-in-chief of that party's witnesses.

(3) The contents of the bundle of documents referred to in paragraph (1)(*b*) must be agreed on between the parties as far as possible, and this bundle of agreed documents must be filed by the accounting party lodging the account pursuant to rule 684(3).

(4) If the parties are unable to agree on the inclusion of certain documents —

(*a*) those documents on which agreement cannot be reached must be included in separate bundles; and

(*b*) each such bundle must be filed by the party that intends to rely on or refer to the documents in that bundle at the same time as the bundle of documents referred to in paragraph (3).

(5) For the purposes of this rule, all documents contained in bundles must be arranged chronologically or in some logical order and must be paginated.

(6) The contents and format of every bundle of documents filed pursuant to this rule must comply with the requirements laid down in any practice directions.

Allowances

687. In taking any account directed by any judgment or order, all just allowances shall be made without any direction to that effect.

Delay in prosecution of accounts, etc.

688.—(1) If it appears to the Court that there is undue delay in the prosecution of any accounts or inquiries, or in any other proceedings under any judgment or order, the Court —

(*a*) may require the party having the conduct of the proceedings or any other party to explain the delay; and

(*b*) may then make such order —

(i) for staying the proceedings, for expediting the proceedings or for the conduct of the proceedings; and

(ii) for costs as the circumstances require.

(2) The Court may direct any party to take over the conduct of the proceedings in question or to carry out any directions made by an order under this rule and the Court may make such order as to costs as the Court deems fit.

Distribution of fund before all persons entitled are ascertained

689. Where some of the persons entitled to share in a fund are ascertained, and difficulty or delay has occurred or is likely to occur in ascertaining the other persons so entitled, the Court may order or allow immediate payment of their shares to the persons

ascertained without reserving any part of those shares to meet the subsequent costs of ascertaining those other persons.

Division 42 — Enforcement of judgments and orders

Enforcement of judgment, etc., for payment of money

690.—(1) Subject to these Rules and section 43 of the State Courts Act (Cap. 321) where applicable, a judgment or an order for the payment of money, other than a judgment or an order for the payment of money into Court, may be enforced by one or more of the following means:

(*a*) writ of seizure and sale;

(*b*) garnishee proceedings;

(*c*) the appointment of a receiver;

(*d*) in a case in which rule 694 applies, an order of committal.

(2) Subject to these Rules, a judgment or an order for the payment of money into Court may be enforced by one or more of the following means:

(*a*) the appointment of a receiver;

(*b*) in a case in which rule 694 applies, an order of committal.

(3) Paragraphs (1) and (2) are without prejudice to —

(*a*) any other remedy available to enforce such a judgment or an order as is therein mentioned; and

(*b*) any written law relating to bankruptcy or the winding up of companies.

(4) In this Division, references to any writ shall include references to any further writ in aid of the first-mentioned writ.

Judgment, etc., for payment of money to person resident outside scheduled territories

691.—(1) Where any person is directed by any judgment, order or award to pay any money to or for the credit of a person who is resident outside the scheduled territories, he must, unless the Monetary Authority of Singapore has given permission for the payment under the Exchange Control Act (Cap. 99), unconditionally or upon conditions which have been complied with, pay the money into Court.

(2) Where a person has paid money into Court under paragraph (1) —

(*a*) that payment shall, to the extent of the amount paid in, be a good discharge to the person making the payment; and

(*b*) no steps may be taken to enforce the judgment, order or award to the extent of that amount paid in.

(3) Notice of a payment into Court under this rule must be given —

(*a*) to the plaintiff or his solicitor; and

(*b*) to any other person required, by the judgment, order or award, to be given the notice.

Enforcement of judgment for possession of immovable property

692.—(1) Subject to these Rules, a judgment or an order for the giving of possession of immovable property may be enforced by one or more of the following means:

(*a*) writ of possession;

(*b*) where rule 694 applies, an order of committal.

(2) A writ of possession to enforce a judgment or an order for the giving of possession of any immovable property must not be issued without the leave of the Court.

(3) The Court must not grant leave unless it is shown that every person in actual possession of the whole or any part of the immovable property has received such notice of the proceedings as appears to the Court sufficient to enable him to apply to the Court for any relief to which he may be entitled.

(4) A writ of possession may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

Enforcement of judgment for delivery of movable property

693.—(1) Subject to these Rules, a judgment or an order for the delivery of any movable property which does not give a person against whom the judgment is given or order made the alternative of paying the assessed value of the property may be enforced by one or more of the following means:

(*a*) writ of delivery to recover the property without alternative provision for recovery of the assessed value of the property (called in this rule a writ of specific delivery);

(*b*) where rule 694 applies, an order of committal.

(2) Subject to these Rules, a judgment or an order for the delivery of any movable property or payment of its assessed value may be enforced by one or more of the following means:

(*a*) writ of delivery to recover the property or its assessed value;

(*b*) with the leave of the Court, writ of specific delivery;

(*c*) where rule 694 applies, an order of committal.

(3) A writ of specific delivery, and a writ of delivery to recover any movable property or its assessed value, may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

(4) A judgment or an order for the payment of the assessed value of any movable property may be enforced by the same means as any other judgment or order for the payment of money.

Enforcement of judgment to do or abstain from doing act

694.—(1) A judgment or an order may, subject to these Rules, be enforced by one or more of the means referred to in paragraph (2), where —

(*a*) a person required by the judgment or order to do an act within a time specified in that judgment or order refuses or neglects to do it within that time or, within that time as extended or abridged under rule 15, as the case may be; or

(*b*) a person disobeys the judgment or order requiring him to abstain from doing an act.

(2) For the purposes of paragraph (1), the means of enforcement are as follows:

(*a*) with the leave of the Court, an order of committal against the person referred to in that paragraph;

(*b*) where the person referred to in that paragraph is a body corporate, with the leave of the Court, an order of committal against any director or other officer of the body.

(3) Where a judgment or an order requires a person to do an act within a specified time and an order is subsequently made under rule 695 requiring the act to be done within some other time, references in paragraph (1) to a judgment or an order are to be

construed as references to the order made under that rule.

(4) Where under any judgment or order requiring the delivery of any movable property the person liable to execution has the alternative of paying the assessed value of the property, the judgment or order shall not be enforceable by order of committal under paragraph (2).

(5) Despite paragraph (4), the Court may, on the application of the person entitled to enforce the judgment or order referred to in that paragraph, make an order requiring the person liable to execution to deliver the property to the applicant within a time specified in the order, and that order may be so enforced.

Order fixing time for doing act required to be done by judgment, etc.

695.—(1) Even if a judgment or an order requiring a person to do an act specifies a time within which the act is to be done, the Court may, without prejudice to rule 15, make an order requiring the act to be done within such time after service of that order, or such other time as may be specified in the order.

(2) Where, despite rule 674(1), or because of rule 674(2), a judgment or an order requiring a person to do an act does not specify a time within which the act is to be done, the Court may make an order requiring the act to be done within such time after service of that order, or such other time, as may be specified in the order.

(3) An application for an order under this rule must be made by summons and the summons must, despite rule 907, be served on the person required to do the act in question.

Service of copy of judgment, etc., prerequisite to enforcement under rule 694

696.—(1) In this rule, references to an order is to be construed as including references to a judgment.

(2) Subject to rules 477(4) and 492(3) and paragraphs (6) and (7) of this rule, an order must not be enforced under rule 694 unless —

(*a*) a copy of the order has been served personally on the person required to do or abstain from doing the act in question; and

(*b*) in the case of an order requiring a person to do an act, the copy has been so served before the expiration of the time within which he was required to do the act.

(3) Subject as aforesaid, an order requiring a body corporate to do or abstain from doing an act must not be enforced as mentioned in rule 694(2)(*b*) unless —

(*a*) a copy of the order has also been served personally on the officer against whom an order of committal is sought; and

(*b*) in the case of an order requiring the body corporate to do an act, the copy has been so served before the expiration of the time within which the body corporate was required to do the act.

(4) The copy of an order served under this rule must be endorsed with a notice in Form 136 informing the person on whom the copy is served —

(*a*) in the case of service under paragraph (2), that he is liable to process of execution to compel him to obey the order —

(i) if he neglects to obey the order within the time specified in it; or

(ii) where the order is to abstain from doing an act, if he disobeys the order; and

(*b*) in the case of service under paragraph (3), that the body corporate is liable to process of execution to compel it to obey the order —

(i) if the body corporate neglects to obey the order within the time so specified; or

(ii) where the order is to abstain from doing an act, if the body corporate disobeys the order.

(5) Where a copy of an order, being an order requiring a person to do an act, is required to be served under this rule, the following must be served together with that copy:

(*a*) a copy of any order made under rule 15, extending or abridging the time for doing the act; and

(*b*) where the first-mentioned order was made under rule 694(4) and (5) or 695, a copy of the previous order requiring the act to be done.

(6) An order requiring a person to abstain from doing an act may be enforced under rule 694 although service of a copy of the order has not been effected in accordance with this rule if the Court is satisfied that, pending such service, the person against whom or against whose property it is sought to enforce the order has had notice of the order either —

(*a*) by being present when the order was made; or

(*b*) by being notified of the terms of the order, whether by telephone, telegram or otherwise.

(7) Without prejudice to its powers under rule 901, the Court may dispense with service of a copy of an order under this rule if it thinks it just to do so.

Court may order act to be done at expense of disobedient party

697.—(1) If a Mandatory Order[7], an injunction or a judgment or an order for the specific performance of a contract is not complied with, the Court may direct that the act required to be done may, so far as practicable, be done by the party by whom the order or judgment was obtained or some other person appointed by the Court, at the cost of the disobedient party.

(2) Upon the act referred to in paragraph (1) being done —

(*a*) the expenses incurred may be ascertained in such manner as the Court may direct; and

(*b*) execution may issue against the disobedient party for the amount so ascertained and for costs.

(3) The Court's power under paragraphs (1) and (2) is without prejudice to —

(*a*) its powers under section 31 of the Family Justice Act 2014 (Act 27 of 2014), where applicable; and

(*b*) its powers to punish the disobedient party for contempt.

Execution by or against person not being a party

698.—(1) A person, not being a party to a cause or matter, who obtains any order or in whose favour any order is made, is entitled to enforce obedience to the order by the same process as if he were a party.

(2) A person, not being a party to a cause or matter, against whom obedience to any judgment or order may be enforced, shall be liable to the same process for enforcing obedience to the judgment or order as if he were a party.

Waiver of conditional judgment

699.—(1) A party entitled under any judgment or order to any relief subject to the fulfilment of any condition and who fails to fulfil that condition is deemed to have abandoned the benefit of the judgment or order.

(2) In the case of paragraph (1), any other person interested may, unless the Court otherwise directs, take any proceedings which either are warranted by the judgment or order or might have taken if the judgment or order had not been given or made.

Stay of execution of judgment or order or other relief

700.—(1) Without prejudice to rule 731, a party against whom a judgment has been given or an order made may apply to the Court for a stay of execution of the judgment or order or other relief based on matters which have occurred since the date of the judgment or order.

(2) The Court may, on an application under paragraph (1), grant such relief, and on such terms, as it thinks fit.

Power to make order and give directions for just, expeditious and economical disposal of execution proceedings

701. Despite anything in these Rules, the Court may, at any time after the commencement of any execution proceedings, of its own motion or upon a party's written request, direct any party to those proceedings to appear before the Court, for the Court to make such order or give such direction as it thinks fit, for the just, expeditious and economical disposal of such proceedings including striking out of any writ of execution.

Forms of writs

702.—(1) A writ of seizure and sale must be in Form 137 (for movable property) or Form 138 (for immovable property).

(2) A writ of delivery must be in Form 139.

(3) A writ of possession must be in Form 140.

Enforcement of judgments and orders for recovery of money, etc.

703.—(1) Rule 690(1) (except paragraph (1)(*d*)) and Divisions 43 to 49 of this Part apply in relation to a judgment or an order for the recovery of money as they apply in relation to a judgment or an order for the payment of money.

(2) Rules 692 (except paragraph (1)(*b*)) and 733(2) apply in relation to a judgment or an order for the recovery of possession of immovable property as they apply in relation to a judgment or an order for the giving or delivery of possession of immovable property.

(3) Rules 693 (except paragraphs (1)(*b*) and (2)(*c*)) and 733(2) apply in relation to a

judgment or an order for the return of any movable property or the recovery of its assessed value as they apply in relation to a judgment or an order for the delivery of any movable property or payment of its assessed value respectively.

Division 43 — Writs of execution: General

Definition

704. In this Division and Divisions 44 and 45, unless the context otherwise requires, "writ of execution" includes a writ of seizure and sale, a writ of possession and a writ of delivery.

When leave to issue writ of execution is necessary

705.—(1) A writ of execution to enforce a judgment or an order may not be issued without the leave of the Court in the following cases:

(*a*) where 6 years or more have lapsed since the date of the judgment or order;

(*b*) where any change has taken place, whether by death or otherwise, in the parties entitled or liable to execution under the judgment or order;

(*c*) where the judgment or order is against the assets of a deceased person coming into the hands of his executors or administrators after the date of the judgment or order, and it is sought to issue execution against such assets;

(*d*) where under the judgment or order any person is entitled to relief subject to the fulfilment of any condition which it is alleged has been fulfilled;

(*e*) where any movable property sought to be seized under a writ of execution is in the hands of a receiver appointed by the Court.

(2) Paragraph (1) is without prejudice to any written law or rule where a person is required to obtain the leave of the Court —

(*a*) for the issue of a writ of execution; or

(*b*) to proceed to execution on or otherwise the enforcement of a judgment or an order.

(3) Where the Court grants leave, whether under this rule or otherwise, for the issue of a writ of execution and the writ is not issued within one year after the date of the order granting such leave, the order shall cease to have effect, without prejudice, however, to

the making of a fresh order.

Application for leave to issue writ

706.—(1) An application for leave to issue a writ of execution may be made by ex parte summons in Form 141.

(2) The application must be supported by an affidavit —

(*a*) identifying the judgment or order to which the application relates;

(*b*) if the judgment or order in sub-paragraph (*a*) is for the payment of money, stating the amount originally due under the judgment or order and the amount due under the judgment or order at the date of the application;

(*c*) stating, where the case falls within rule 705(1)(*a*), the reasons for the delay in enforcing the judgment or order;

(*d*) stating, where the case falls within rule 705(1)(*b*), the change which has taken place in the parties entitled or liable to execution since the date of the judgment or order;

(*e*) stating, where the case falls within rule 705(1)(*c*) or (*d*), that a demand to satisfy the judgment or order was made on the person liable to satisfy it and that he has refused or failed to do so; and

(*f*) giving such other information as is necessary to satisfy the Court that the applicant is entitled to proceed to execution on the judgment or order and that the person against whom it is sought to issue execution is liable to execution on it.

(3) The Court hearing the application may —

(*a*) grant leave in accordance with the application; or

(*b*) order that any issue or question, a decision on which is necessary to determine the rights of the parties, be tried in any manner in which any question of fact or law arising in an action may be tried.

(4) In making an order under paragraph (3), the Court may impose such terms as to costs or otherwise as it thinks just.

Issue of writ of execution

707.—(1) Every writ of execution must be in Form 137, 138, 139 or 140.

(2) The Registrar must assign a serial number to the writ and must sign, seal and date

the writ whereupon the writ shall be deemed to be issued.

(3) No such writ shall be sealed unless at the time of the tender of the writ for sealing —

(*a*) the person tendering it produces —

(i) the judgment or order on which the writ is to issue, or a copy of the judgment or order;

(ii) where the writ may not issue without the leave of the Court, the order granting such leave or evidence of the granting of such leave;

(iii) where rule 708(3) applies, the written permission of the Monetary Authority of Singapore therein referred to; and

(iv) the undertaking, declaration and indemnity in Form 142; and

(*b*) the officer authorised to seal it is satisfied that the period, if any, specified in the judgment or order for the payment of any money or the doing of any other act has expired.

Writ where Exchange Control Act applies

708.—(1) Where any party entitled to enforce a judgment or an order for the payment of money is resident outside the scheduled territories, then, unless the Monetary Authority of Singapore has given permission under the Exchange Control Act (Cap. 99), for payment of money to him unconditionally or on conditions which have been complied with, any writ of execution to enforce that judgment or order must direct the bailiff to pay the proceeds of execution into Court.

(2) The bailiff must give notice of payment into Court in compliance with a direction under paragraph (1) to the party by whom the writ of execution was issued or to his solicitor.

(3) Where the Monetary Authority of Singapore has given such permission unconditionally or on conditions which have been complied with, the writ of execution to enforce the judgment or order in question must be endorsed with such a certificate of that fact.

Duration and renewal of writ of execution

709.—(1) For the purpose of execution, a writ of execution is valid in the first

instance for 12 months beginning with the date of the issue.

(2) Where a writ has not been wholly executed, the Court may by order extend the validity of the writ from time to time for a period of 12 months at any time beginning with the day on which the order is made, if an application for extension is made to the Court before the day next following that on which the writ would otherwise expire.

(3) For the purposes of this rule, "wholly executed" means —

(*a*) in the case of a writ of seizure and sale, the sale of all the seized property by the bailiff;

(*b*) in the case of a writ of delivery, the transfer of possession of the movable property by the bailiff to the judgment creditor; and

(*c*) in the case of a writ of possession, the transfer of possession of the immovable property by the bailiff to the judgment creditor.

(4) Before a writ the validity of which has been extended under this rule is executed, the writ must be marked in Form 67 showing the date on which the order extending its validity was made.

(5) The priority of a writ, the validity of which has been extended under this rule, shall be determined by reference to the date on which it was originally issued.

(6) The production of a writ of execution, purporting to be sealed as mentioned in paragraph (4), shall be evidence that the validity of that writ has been extended under this rule.

Fees, expenses, etc., to be levied

710. In every case of execution, the party entitled to execution may levy the commission, fees and expenses of execution over and above the sum recovered.

Costs of writ

711. Subject to these Rules, the costs of and incidental to a writ of execution, whether executed or unexecuted, or unproductive, must be allowed against the person liable, unless the Court otherwise orders.

Satisfaction by consent

712.—(1) Any person who has satisfied a judgment debt may on filing a consent of the judgment creditor in Form 143 apply to the Court for satisfaction to be recorded and the Court may order satisfaction to be recorded accordingly.

(2) The consent of the judgment creditor must be attested by his solicitor or if he has no solicitor, by a commissioner for oaths.

Where consent refused

713.—(1) If a judgment creditor refuses or neglects to give such consent when requested, or cannot be found, the judgment debtor may apply to the Registrar for an order that satisfaction be recorded.

(2) The summons must be served on the judgment creditor at least 2 clear days before the hearing of the summons unless the Registrar otherwise orders.

(3) If on such application the Registrar is satisfied that the judgment debt has been satisfied and the judgment creditor has no reasonable ground for refusing or neglecting to give such consent, the Registrar may order —

(*a*) that satisfaction be recorded; and

(*b*) that the judgment creditor pay the costs of and incidental to the application.

Deposit for costs of execution and date for execution

714.—(1) Before any writ of execution is executed, the person at whose instance the writ was issued (called in these Rules the execution creditor) must, if the bailiff so requests —

(*a*) deposit in the Registry a sufficient sum of money to defray the costs of the execution; and

(*b*) where a previous date appointed for execution has been vacated or postponed, file a Request[4] in Form 144 for another date to be appointed for the execution.

(2) Where the execution creditor has caused a date appointed for the execution to be vacated or postponed, the bailiff may, if he thinks that such vacation or postponement is without good reason, direct that any fee paid and expenses incurred by the execution creditor in respect of the appointment shall not be recovered by the execution creditor as a disbursement.

(3) For the purposes of paragraph (2), the fee for the request for a date to be appointed shall be limited to the amount specified in the Fifth Schedule.

Where bailiff in possession more than 14 days

715. Where the bailiff has to remain in possession of movable property for more than

14 days, the execution creditor must —

(*a*) before or at the end of the first 14 days of the bailiff keeping possession, deposit in the Registry, if the bailiff so requests, a further sum of money to provide for the costs of execution for the next ensuing 14 days; and

(*b*) continue to make such deposits in advance before or at the end of each successive period of 14 days so long as the bailiff continues in possession.

Proper officer to give receipt

716.—(1) The proper officer in the Registry must give a receipt for each sum of money deposited and he must apply such sums or so much of the sums as is necessary for the costs of the execution.

(2) The bailiff must return, to the execution creditor, any balance of money remaining after the release of the person or the movable property seized, as the case may be, under the writ of execution.

(3) Where the movable property seized under a writ of execution is sold by the bailiff or he receives the amount of the levy without sale, any sums of money deposited by the execution creditor must, so far as the moneys coming to the hands of the bailiff will allow, be refunded to the execution creditor.

Division 44 — Writs of execution: Duties of bailiff

Time of filing to be forthwith endorsed on writ

717. Whenever any writ of execution is delivered to the bailiff, he must endorse on the writ the day, hour and minute of such delivery.

Time of execution

718. Any writ of execution may be executed between the hours of 9 a.m. and 5 p.m., unless the bailiff otherwise orders.

Notice of seizure and inventory

719.—(1) Where any movable property is seized by the bailiff under a writ of execution, the bailiff must give to the execution debtor a notice of seizure in Form 145 and file a copy of the notice.

(2) Where the bailiff removes from a place any movable property that is seized, he must give to the execution debtor at the time the property is removed or immediately

afterwards an inventory of the property so removed.

(3) The notice of seizure under paragraph (1) and the inventory under paragraph (2) may be —

(*a*) handed to the execution debtor personally;

(*b*) sent to him by post to his place of residence; or

(*c*) left at or sent by post addressed to him at the place from which the property was seized.

Proper officer to keep records and to prepare statement of accounts

720.—(1) The proper officer receiving any money under any writ of execution must give a receipt for every sum so received.

(2) The proper officer must keep a record of all sums of money received by him under a writ of execution and of the manner in which he has applied them, and must endorse on or annex to the writ a statement thereof.

(3) Subject to these Rules and any written law, the proper officer must prepare a statement of accounts in respect of the moneys received by him under a writ of execution as follows and in the following order:

(*a*) the Court fees and commission;

(*b*) the expenses of execution;

(*c*) moneys due to the execution creditor under rule 716 which have not been returned to him;

(*d*) moneys available for payment to the execution creditor to satisfy the judgment or order in respect of which the execution was issued;

(*e*) where there is more than one writ of execution in his hands against the same defendant, moneys available to satisfy the various execution creditors in the order of the priority of their writs according to the dates of issue;

(*f*) after accounting for the moneys available for payment to the execution creditors, show any balance due to the execution debtor.

(4) If the proceeds of the sale received by the proper officer are insufficient to cover the fees, commission and expenses of execution, the execution creditor —

(*a*) must pay to the proper officer the amount of the deficiency; and

(*b*) is entitled to add such amount to the judgment debt to be eventually

recovered from the judgment debtor.

Bailiff to give information if required

721.—(1) On a written application by the execution creditor, the execution debtor, or any claimant to movable property seized by him, the bailiff must within 2 days furnish to such applicant a memorandum stating —

(*a*) the date on which the writ was delivered to the bailiff;

(*b*) the amount leviable under the writ;

(*c*) the particulars of property seized;

(*d*) the place of seizure;

(*e*) particulars of any claim to such property of which the bailiff has received notice;

(*f*) the gross proceeds of sale;

(*g*) the amount of the fees, commission and expenses; and

(*h*) the moneys paid by the bailiff into the Registry and to whose credit.

(2) The bailiff must at all times permit the execution creditor, judgment debtor, or any claimant to property seized by him to inspect and copy free of charge any inventory of property seized, sales account, or note of the fees, commission and expenses together with all vouchers in support of such fees, commission and expenses.

Date of arrest to be endorsed

722. The bailiff executing an order to arrest must endorse on the order the day, hour and minute of the arrest.

Bailiff may be required to show cause for neglect of duty

723.—(1) Any person aggrieved by any alleged non-observance by the bailiff of any duty imposed on him by any written law or by these Rules, may apply to the Court for an order that the bailiff show cause why he should not do the thing required.

(2) On an application under paragraph (1), the bailiff may be required to show cause accordingly.

Payment out

724.—(1) Subject to these Rules and to section 106 of the Bankruptcy Act (Cap. 20), section 33 of the Employment Act (Cap. 91), and to any other written law, any sum of money paid by the bailiff to the credit of the execution creditor, or by the judgment debtor, under rule 720 must, subject to any order of Court, be paid to the execution creditor or judgment debtor respectively on his application without an order.

(2) The bailiff may, in his discretion, require the execution creditor or judgment debtor, as the case may be, to apply to Court for an order for payment out.

Division 45 — Writs of execution: Sale by bailiff

Bailiff to sell

725. Subject to these Rules, the bailiff must sell all property seized by him under a writ of execution.

Sale by public auction

726. Unless the bailiff otherwise orders —

(*a*) all sales must be by public auction between the hours of 9 a.m. and 5 p.m.; and

(*b*) notice in Form 146 of the day, hour and place of any intended sale must be posted as far as practicable at the place of intended sale 7 days before the date of sale.

Sale by authorised auctioneer where property value exceeds $2,000

727.—(1) Where the value of the property attached or seized is estimated by the bailiff to exceed $2,000, the sale must —

(*a*) unless the bailiff otherwise orders, be conducted by an authorised auctioneer; and

(*b*) be publicly advertised by the bailiff or auctioneer once, 14 days before the date of sale.

(2) In any other case, the sale may be conducted by the bailiff.

Negotiable instruments

728. Negotiable instruments may be sold through the agency of a broker.

Bailiff may execute or endorse documents

729.—(1) Where the execution or endorsement of any document is ordinarily lawfully required to give effect to any sale by the bailiff, the bailiff may execute or endorse such document.

(2) The execution or endorsement of the document by the bailiff shall have the same effect as the execution or endorsement by the judgment debtor.

When order made suspending execution

730. Where there is an order under section 43 of the State Courts Act (Cap. 321) suspending or staying execution, the Court may order the person liable to execution to pay the costs of the writ and any fees or expenses incurred by the bailiff before the suspension of execution and may authorise the bailiff to sell a portion of the movable property seized sufficient to realise such costs, fees and expenses, and commission (if any).

Division 46 — Writs of seizure and sale

Power to stay execution by writ of seizure and sale

731.—(1) Where a judgment is given or an order made for the payment of money by any person, and the Court is satisfied, on an application made at the time of the judgment or order, or at any time thereafter, by the judgment debtor or other party liable to execution —

(*a*) that there are special circumstances which render it inexpedient to enforce the judgment or order; or

(*b*) that the applicant is unable from any cause to pay the money,

then, despite anything in rule 733, the Court may by order stay the execution of the judgment or order by writ of seizure and sale either absolutely or for such period and subject to such conditions as the Court thinks fit.

(2) An application under this rule, if not made at the time the judgment is given or order made, must be made by summons and may be so made notwithstanding that the party liable to execution did not enter an appearance in the action.

(3) An application made by summons must be supported by an affidavit made by or on behalf of the applicant —

(*a*) stating the grounds of the application and the evidence necessary to substantiate them; and

(*b*) where such application is made on the grounds of the applicant's inability to pay, disclosing his income, the nature and value of any property of his and the amount of any other liabilities of his.

(4) The summons and a copy of the supporting affidavit must, not less than 4 clear days before the return day, be served on the party entitled to enforce the judgment or order.

(5) An order staying execution under this rule may be varied or revoked by a subsequent order.

Application for new instalment order

732.—(1) Where a judgment is given or an order made for the payment of any money under section 43 of the State Courts Act (Cap. 321), by instalments or otherwise, either party to the judgment or order may apply to the Court by summons supported by an affidavit in Form 147 for an order that the money unpaid on the judgment or order be paid in one sum, or smaller or larger instalments than that previously ordered.

(2) The summons must be served on the other party to the judgment or order.

(3) The Court hearing the application may, as it thinks just, order that the money unpaid on the judgment or order be paid in one sum or make a new order for payment by instalments.

(4) An order made under paragraph (3) must be in Form 148 and must be served by the applicant on the other party.

Separate writs to enforce payment of costs, etc.

733.—(1) Where only the payment of money, together with costs to be taxed, is adjudged or ordered, and the costs have not been taxed when the money becomes payable under the judgment or order, the party entitled to enforce that judgment or order may —

(*a*) issue a writ of seizure and sale to enforce the judgment or order; and

(*b*) not less than 8 days after the issue of that writ, issue a second writ to enforce payment of the taxed costs.

(2) A party entitled to enforce a judgment or an order for the delivery of possession of any property (other than money) may issue a separate writ of seizure and sale to enforce payment of any damages or costs awarded to him by that judgment or order.

Immovable property

734.—(1) This rule applies where the property to be seized consists of immovable property or any interest in immovable property.

(2) Seizure must be effected by registering under any written law relating to the immovable property an order of Court in Form 149 (called in this rule and rule 735 the order) attaching the interest of the judgment debtor in the immovable property described in the order.

(3) On registration under paragraph (2), the interest of the judgment debtor shall be deemed to be seized by the bailiff.

(4) An application for an order under this rule may be made by ex parte summons.

(5) The application must be supported by an affidavit —

(*a*) identifying the judgment or order to be enforced;

(*b*) stating the name of the judgment debtor in respect of whose immovable property or interest an order is sought;

(*c*) stating the amount remaining unpaid under the judgment or order at the time of application;

(*d*) specifying the immovable property or the interest in the immovable property in respect of which an order is sought; and

(*e*) stating that to the best of the information or belief of the deponent, the immovable property or interest in question is the judgment debtor's and stating the sources of the deponent's information or the grounds for his belief.

(6) As many copies of the order as the case may require must be issued to the judgment creditor so that he may present the order, in compliance with the provisions of any written law relating to such immovable property, for registration at the Registry of Deeds or the Land Titles Registry, as the case may be, of the Singapore Land Authority.

(7) After registering the order, the judgment creditor must —

(*a*) file a writ of seizure and sale in Form 138; and

(*b*) file an undertaking, declaration and indemnity in Form 142.

(8) After the judgment creditor has complied with paragraph (7), the bailiff must —

(*a*) serve a copy of the writ of seizure and sale together with the order and the notice of seizure in Form 150 on the judgment debtor forthwith; and

(*b*) if the judgment debtor cannot be found, affix a copy of the documents referred to in sub-paragraph (*a*) to some conspicuous part of the immovable property seized.

(9) Subject to paragraph (10), any order made under this rule shall, unless registered under any written law relating to such immovable property, remain in force for 6 months from the date of the order.

(10) Upon the application of any judgment creditor on whose application an order has been made, the Court may, if it thinks just, from time to time by order extend the period of 6 months referred to in paragraph (9) for any period not exceeding 6 months, and paragraphs (6), (7) and (8) will apply to such order.

(11) The Court may at any time, on sufficient cause being shown, order that property seized under this rule be released.

(12) Rule 709(1) and (2) does not apply to the order made under this rule.

Sale of immovable property

735.—(1) The sale of immovable property, or any interest in immovable property, shall be subject to this rule.

(2) There must be no sale until the expiration of 30 days from the date of registration of the order under rule 734(2).

(3) The particulars and conditions of sale must be settled by the bailiff or his solicitor.

(4) The judgment debtor may apply by summons to the Court to postpone the sale so that he may raise the amount leviable under the order by mortgage or lease, or sale of a portion only, of the immovable property seized, or by sale of any other property of the judgment debtor, or otherwise.

(5) The Court may, if satisfied on an application under paragraph (4), that there is reasonable ground to believe that the amount leviable may be raised in any manner referred to in that paragraph, postpone the sale for such period and on such terms as are just.

(6) The judgment creditor may apply to the Court for the appointment of a receiver of the rents and profits, or a receiver and a manager of the immovable property, in lieu of sale of the immovable property.

(7) The Court may, on an application under paragraph (6), appoint such receiver or receiver and manager, and give all necessary directions in respect of such rents and profits or immovable property.

(8) Where the interest of the judgment debtor in any immovable property, seized and sold under the order, includes a right to the immediate possession of the immovable property, the bailiff must put the purchaser in possession.

(9) Pending the execution or endorsement of any deed or document which is ordinarily lawfully required to give effect to any sale by the bailiff, the Court may by order appoint the bailiff to receive any rents and profits due to the purchaser in respect of the property sold.

(10) The bailiff may at any time apply to the Court for directions with respect to the immovable property or any interest in the immovable property seized under the order.

(11) The bailiff may, or, if the Court so directs, must give notice of the application under paragraph (10) to the judgment creditor, the judgment debtor and any other party interested in the property.

Securities

736.—(1) Where the property to be seized consists of any Government stock, or any stock of any company or corporation registered or incorporated under any written law, including any such stock standing in the name of the Accountant-General, to which the judgment debtor is beneficially entitled, seizure of such property must be made by a notice in Form 151, signed by the bailiff, attaching such stock.

(2) The notice must be addressed —

(*a*) in the case of Government stock, to the Accountant-General;

(*b*) in the case of stock listed on the Singapore Exchange and held under a central depository system, to the depository for the time being and the company or corporation concerned;

(*c*) in the case of other stock, to the company or corporation concerned; and

(*d*) in the case of stock standing in the name of the Accountant-General, to the Accountant-General.

(3) The bailiff must serve the notice and a copy of the writ of seizure and sale, on the person to whom the notice is addressed under paragraph (2), by any mode of service as the bailiff thinks fit.

(4) A copy of the notice must at the same time be sent to the judgment debtor at his address for service.

(5) On receipt of such notice, the judgment debtor must —

(*a*) hand over to the bailiff at his office any indicia of title in his possession relating to such stock; or

(*b*) where any such indicia of title are not in his possession, notify the bailiff in writing of the name and address of the person having possession of the indicia of title.

(6) The bailiff must also send a copy of the notice to any person, other than the judgment debtor, in whose possession he has reason to believe any such indicia of title to be.

(7) After the receipt of any notice sent under paragraph (3), and unless the notice is withdrawn, no transfer of the stock or any interest in it, as the case may be, shall be registered or effected unless the transfer is executed or directed by the bailiff.

(8) A transfer or direction by the bailiff under paragraph (7) shall have the same effect as if the registered holder or beneficial owner of such stock had executed the transfer, and shall be dealt with accordingly.

(9) All interest or dividends becoming due and payable or benefits accruing after receipt of such notice, must be paid or transmitted to the bailiff, until the withdrawal of the notice or until the transfer or direction of the bailiff under paragraph (7).

(10) A notice served under paragraph (3) may be withdrawn by notice in writing to that effect signed by the bailiff and served to the person and in the manner provided by that paragraph.

(11) The Court may, on the application of the judgment debtor or any other person interested in the stock seized under this rule, at any time, on sufficient cause being shown, order that the stock or any part of it be released.

(12) In this Division —

"Government stock" means any stock issued by the Government or any funds of or annuity granted by the Government;

"stock" includes shares, debentures, debenture stock and stock options.

Sale of securities

737.—(1) Stock seized under rule 736 may be sold through the agency of a broker.

(2) Where the indicia of title are not in the possession of the bailiff, he may apply to the Court for such directions as may be necessary to give effect to the sale.

Withdrawal and suspension of writ

738.—(1) Where any execution creditor requests the bailiff to withdraw the seizure —

(*a*) the execution creditor shall be deemed to have abandoned the execution; and

(*b*) the bailiff must mark the writ of seizure and sale as withdrawn by request of the execution creditor.

(2) Despite paragraph (1), where the request is made in consequence of a claim having been made in interpleader proceedings, the execution shall be deemed to be abandoned in respect only of the property so claimed.

(3) A writ of seizure and sale which has been withdrawn under this rule must not be re-issued.

(4) Despite paragraph (3), the execution creditor whose writ has been withdrawn may apply by summons for a fresh writ of seizure and sale to be issued.

(5) The summons referred to in paragraph (4) must be supported by an affidavit stating the grounds of the application.

(6) The writ that is re-issued shall take priority according to its date of issue.

Division 47 — Examination of judgment debtor

Order for examination of judgment debtor

739.—(1) Where a person has obtained a judgment or an order for the payment by some other person (called in this Division the judgment debtor) of money, the Court may, on an application made by the person entitled to enforce the judgment or order —

(*a*) order the judgment debtor, or, if the judgment debtor is a body corporate, an officer of it, to attend before the Registrar, and be orally examined on whatever property the judgment debtor has and wheresoever situated; and

(*b*) order the judgment debtor or officer to produce any books or documents in the possession of the judgment debtor relevant to the questions aforesaid at the time and place appointed for the examination.

(2) An application under paragraph (1) must be made by ex parte summons supported by an affidavit in Form 152.

(3) An order made under this rule must be in Form 153 and must be served personally on the judgment debtor and on any officer of a body corporate ordered to attend for examination.

(4) The Registrar may refer to the Court any difficulty arising in the course of an examination under this rule before him, including any dispute as to the obligation of the person being examined to answer any question put to that person.

(5) Where a referral is made to the Court under paragraph (4), the Court may determine the matter or give such directions for determining the matter as it thinks fit.

Examination of party liable to satisfy judgment

740. Where any difficulty arises in or in connection with the enforcement of any judgment or order, other than such a judgment or an order referred to in rule 739, the Court may make an order under that rule for the attendance of the party liable to satisfy the judgment or order and for his examination on such questions as may be specified in the order, and that rule will apply accordingly with the necessary modifications.

Registrar to make record of debtor's statement

741. The Registrar conducting the examination must cause to be recorded under rule 611(1), the statement made by the judgment debtor or other person at the examination.

Division 48 — Garnishee proceedings

Attachment of debt due to judgment debtor

742.—(1) Where —

(*a*) a person (called in these Rules the judgment creditor) has obtained a judgment or an order for the payment by another person (called in these Rules the judgment debtor) of money (other than payment of money into Court); and

(*b*) any other person within the jurisdiction (called in this Division the garnishee) is indebted to the judgment debtor,

the Court may, subject to the provisions of this Division and of any written law, order the garnishee to pay the judgment creditor the amount of any debt due or accruing due to the judgment debtor from the garnishee, or so much of that debt as is sufficient to satisfy that judgment or order and the costs of the garnishee proceedings.

(2) An order under this rule must in the first instance be an order to show cause in Form 154, and the order must —

(*a*) specify the time and place for further consideration of the matter; and

(*b*) in the meantime attach such debt referred to in paragraph (1), or so much of it as may be specified in the order, to answer the judgment or order mentioned in that paragraph and the costs of the garnishee proceedings.

(3) In this Division, "any debt due or accruing due" includes a current or deposit account with a bank or other financial institution, whether or not the deposit has matured and notwithstanding any restriction as to the mode of withdrawal.

Application for order

743. An application for an order under rule 742 must be made by ex parte summons supported by an affidavit in Form 155 —

(*a*) identifying the judgment or order to be enforced and stating the amount remaining unpaid under it at the time of the application; and

(*b*) stating that to the best of the information or belief of the deponent the garnishee (naming him) is within the jurisdiction and is indebted to the judgment debtor and stating the sources of the deponent's information or the grounds for his belief.

Service and effect of order to show cause

744.—(1) An order under rule 742 to show cause must, at least 7 days before the time appointed by the order for the further consideration of the matter, be served —

(*a*) on the garnishee personally; and

(*b*) unless the Court otherwise directs, on the judgment debtor.

(2) The order shall bind in the hands of the garnishee as from the service of the order on him any debt or so much of it as is specified in the order.

No appearance or dispute of liability by garnishee

745.—(1) Where on the further consideration of the matter the garnishee does not attend or does not dispute the debt due or claimed to be due from him to the judgment debtor, the Court may, subject to rule 748, make a final order[8] in one of the forms in Form 156 under rule 742 against the garnishee.

(2) A final order[8] under rule 742 against the garnishee may be enforced in the same manner as any other order for the payment of money.

Dispute of liability by garnishee

746. Where on the further consideration of the matter the garnishee disputes liability to pay the debt due or claimed to be due from him to the judgment debtor, the Court may —

(*a*) summarily determine the question at issue; or

(*b*) order in Form 157 that any question necessary for determining the liability of the garnishee be tried in any manner in which any question or issue in an action may be tried.

Claims of third persons

747.—(1) If in garnishee proceedings it is brought to the notice of the Court that some person other than the judgment debtor is or claims to be entitled to the debt sought to be attached or has or claims to have a charge or lien upon it, the Court may order that person to attend before the Court and state the nature of the claim with particulars of the claim.

(2) After hearing any person who attends before the Court in compliance with an order under paragraph (1), the Court may —

(*a*) summarily determine the questions at issue between the claimants; or

(*b*) make such other order as it thinks just, including an order that any question or issue necessary for determining the validity of the claim of such other person referred to in paragraph (1) be tried in such manner referred to in rule 746.

Judgment creditor resident outside scheduled territories

748.—(1) The Court shall not make an order under rule 742 requiring the garnishee to pay any sum to or for the credit of any judgment creditor resident outside the scheduled territories unless that creditor produces a certificate that the Monetary Authority of Singapore has given permission under the Exchange Control Act (Cap. 99) for the payment unconditionally or on conditions which have been complied with.

(2) If it appears to the Court that payment by the garnishee to the judgment creditor will contravene any provision of the Exchange Control Act, it may order the garnishee to pay into Court the amount due to the judgment creditor and the costs of the garnishee

proceedings after deduction of his own costs.

Discharge of garnishee

749. Any payment made by a garnishee in compliance with a final order[8] under this Division, and any execution levied against him pursuant to such an order, shall be a valid discharge of his liability to the judgment debtor to the extent of the amount paid or levied notwithstanding that the garnishee proceedings are subsequently set aside or the judgment or order from which they arose is reversed.

Money in Court

750.—(1) Where money is standing to the credit of the judgment debtor in Court, the judgment creditor is not entitled to take garnishee proceedings in respect of that money but may apply to the Court by summons for an order that the money or so much of it as is sufficient to satisfy the judgment or order sought to be enforced and the costs of the application be paid to the judgment creditor.

(2) On issuing a summons under this rule —

(*a*) the applicant must produce the summons at the office of the Accountant-General and leave a copy at that office; and

(*b*) the money to which the application relates must not be paid out of Court until after the determination of the application.

(3) If the application is dismissed, the applicant must give notice of that fact to the Accountant-General.

(4) Unless the Court otherwise directs, the summons must be served on the judgment debtor at least 7 days before the day of the hearing of the summons.

(5) The Court hearing an application under this rule may make such order with respect to the money in Court as it thinks just.

Costs

751. The costs of any application for an order under rule 742 or 750, and of any proceedings arising from or incidental to the application, is, unless the Court otherwise directs, to be retained by the judgment creditor out of the money recovered by him under the order and in priority to the judgment debt.

Division 49 — Stop orders, etc.

Securities not in Court: Stop notice

752.—(1) Any person claiming to be beneficially entitled to an interest in any securities to which this rule applies, other than securities in Court, who wishes to be notified of any proposed transfer or payment of those securities may avail himself of the provisions of this rule.

(2) A person claiming to be so entitled must file in the Registry —

(*a*) an affidavit identifying the securities in question and describing his interest in the securities by reference to the document under which it arises; and

(*b*) a notice in Form 158 signed by the deponent to the affidavit, and annexed to it, addressed to the Accountant-General or the company concerned (as the case may be).

(3) The person claiming to be so entitled must serve a copy of the affidavit and a copy of the notice sealed with the seal of the Family Justice Courts on the Accountant-General or that company.

(4) The affidavit filed under this rule must be endorsed with a notice stating the address to which any such notice as is referred to in rule 753(1) is to be sent and, subject to paragraph (5), that address shall for the purpose of that rule be the address for service of the person on whose behalf the affidavit is filed.

(5) A person on whose behalf an affidavit under this rule is filed may change his address for service for the purpose of rule 753 —

(*a*) by serving on the Accountant-General or the company concerned (as the case may be), a notice to that effect; and

(*b*) as from the date of service of such a notice, the address stated in that notice shall for the purpose of that rule be the address for service of that person.

(6) The securities to which this rule applies are —

(*a*) any Government stock, and any stock of any company or corporation registered or incorporated under any written law, including any such stock standing in the name of the Accountant-General; and

(*b*) any dividend of or interest payable on such stock.

(7) In this Division —

"Government stock" means any stock issued by the Government or any funds of or annuity granted by the Government;

"stock" includes shares, debentures, debenture stock and stock options.

Effect of stop notice

753.—(1) Where a notice under rule 752 has been served on the Accountant-General or a company and so long as the notice is in force, the Accountant-General or the company must not register a transfer of any stock or make a payment of any dividend or interest, being a transfer or payment restrained by the notice, without serving on the person on whose behalf the notice was filed at his address for service a notice informing him of the request for such transfer or payment.

(2) Where the Accountant-General or a company receives a request for a transfer or payment referred to in paragraph (1) made by or on behalf of the holder of the securities to which the notice under rule 752 relates, the Accountant-General or the company must not, by reason only of that notice, refuse to register the transfer or make the payment for longer than 8 days after receipt of the request except under the authority of a Court order.

Amendment of stop notice

754.—(1) If any securities are incorrectly described in a notice filed under rule 752, the person on whose behalf the notice was filed may file in the Registry an amended notice and serve on the Accountant-General or the company concerned (as the case may be) a copy of that notice sealed with the seal of the Family Justice Courts.

(2) Where the person in paragraph (1) has served a copy of the amended notice on the Accountant-General or the company concerned, the notice under rule 752 shall be deemed to have been served on the Accountant-General or company on the day on which the copy of the amended notice was served on it.

Withdrawal, etc., of stop notice

755.—(1) The person on whose behalf a notice under rule 752 was filed may withdraw it by serving a request for its withdrawal on the Accountant-General or the company (as the case may be) on whom the notice was served.

(2) Such request must be signed by the person on whose behalf the notice was filed and his signature must be witnessed by a practising solicitor.

(3) The Court, on the application of any person claiming to be beneficially entitled to an interest in the securities to which a notice under rule 752 relates, may by order discharge the notice.

(4) An application for an order under paragraph (3) must be made by originating

summons, and the originating summons must be served on the person on whose behalf the notice under rule 752 was filed.

Order prohibiting transfer, etc., of securities

756.—(1) The Court, on the application of any person claiming to be beneficially entitled to an interest in any Government stock or any stock of any company registered under any written law, may by order in Form 159 prohibit the Accountant-General or that company (as the case may be) from registering any transfer of such part of that stock as may be specified in the order or from paying any dividend of or interest on that stock.

(2) The name of the holder of the stock to which the order relates must be stated in the order.

(3) An application for an order under this rule must be made —

(*a*) where an action is pending, by summons in the action; and

(*b*) in any other case, by originating summons.

(4) The Court, on the application of any person claiming to be entitled to an interest in any stock to which an order under this rule relates, may vary or discharge the order on such terms (if any) as to costs as it thinks fit.

Stop order on funds in Court

757.—(1) The Court, on the application of any person —

(*a*) who has a mortgage or charge on the interest of any person in funds in Court;

(*b*) to whom that interest has been assigned; or

(*c*) who is a judgment creditor of the person entitled to that interest,

may make an order prohibiting the transfer, sale, delivery out, payment or other dealing with such funds, or any part of the funds, or the income on the funds, without notice to the applicant.

(2) An application under this rule must be made by summons in the cause or matter relating to the funds in Court, or, if there is no such cause or matter, by originating summons.

(3) The originating summons or summons must be served on every person whose interest may be affected by the order applied for and on the Accountant-General but shall not be served on any other person.

(4) Without prejudice to the Court's powers and discretion as to costs, the Court may order the applicant to pay the costs of any party to the cause or matter relating to the funds in question, or of any person interested in those funds, occasioned by the application.

Division 50 — Committal

Committal for contempt of Court

758.—(1) The power of the Court to punish for contempt of Court may be exercised by an order of committal in Form 160.

(2) Where contempt of Court is committed in connection with any proceedings in any Court mentioned in the following sub-paragraphs, an order of committal may be made by that Court:

(*a*) the Family Division of the High Court;

(*b*) a Family Court;

(*c*) a Youth Court.

(3) Where contempt of Court is committed otherwise than in connection with any proceedings, an order of committal may be made only by the Family Division of the High Court.

(4) Where contempt of the Court of Appeal is committed in relation to any proceedings within the jurisdiction of the Family Division of the High Court, an order of committal may be made by the Family Division of the High Court or the Court of Appeal.

(5) Where by virtue of any written law the Family Division of the High Court has power to punish or take steps for the punishment of any person charged with having done anything in relation to a court, tribunal or person which would, if it had been done in relation to the Family Division of the High Court, have been a contempt of that Court, an order of committal may be made by the Family Division of the High Court.

Application to Court

759.—(1) No application to a Court for an order of committal against any person may be made unless leave to make such an application has been granted in accordance with this rule.

(2) An application for such leave must —

(*a*) be made by ex parte originating summons or by summons in the proceedings, as the case may be, to a Judge; and

(*b*) be supported —

(i) by a statement setting out the name and description of the applicant, the name, description and address of the person sought to be committed and the grounds on which his committal is sought; and

(ii) by an affidavit, to be filed when the application is made, verifying the facts relied on.

Application for order after leave to apply granted

760.—(1) When leave has been granted under rule 759 to apply for an order of committal —

(*a*) the application for the order must be made by summons in the proceedings in which leave was obtained; and

(*b*) unless the Judge granting leave has otherwise directed, there must be at least 8 clear days between the service of the application and the date of the hearing.

(2) If the order for committal is not entered for hearing within 14 days after such leave was granted, the leave shall lapse.

(3) Subject to paragraph (4), the ex parte originating summons or summons, the statement and the supporting affidavit under rule 759, the order granting leave and the application for the order of committal must be served personally on the person sought to be committed.

(4) Without prejudice to rule 901, the Court may dispense with service of the documents stated in paragraph (3) if it thinks it just to do so.

Saving for power to commit without application

761. Nothing in rules 758, 759 and 760 shall be taken as affecting the power of the Family Division of the High Court to make an order of committal of its own motion against a person guilty of contempt of Court.

Provisions as to hearing

762.—(1) Except with the leave of the Court hearing an application for an order of committal, no grounds shall be relied upon at the hearing except the grounds set out in the statement under rule 759.

(2) Paragraph (1) is without prejudice to the powers of the Court under rule 424.

(3) Where the person sought to be committed wishes to give oral evidence on his own behalf at the hearing of the application, he is entitled to do so.

Power to suspend execution of committal order

763.—(1) The Court may by order direct that the execution of the order of committal shall be suspended for such period or on such terms or conditions as it may specify.

(2) Where execution of an order of committal is suspended by an order under paragraph (1), the applicant for the order of committal must, unless the Court otherwise directs, serve on the person against whom it was made a notice informing that person of the making and terms of the order under that paragraph.

(3) Where the execution of an order of committal has been suspended under paragraph (1), the applicant for the order of committal may, on the ground that any of the terms of the suspension has been breached, apply for the suspension to be lifted.

(4) An application under paragraph (3) must be made by summons supported by an affidavit.

(5) Unless the Court otherwise directs, the summons and the supporting affidavit under paragraph (4) must be served on the person against whom the order of committal has been granted.

Discharge of person committed

764.—(1) The Court may, on the application of any person committed to prison for any contempt of Court, discharge him.

(2) Where a person has been committed for failing to comply with a judgment or an order requiring him to deliver any thing to some other person or to deposit it in Court or elsewhere, then, if the thing is in the custody or power of the person committed —

(*a*) the bailiff may take possession of it as if it were the property of that person; and

(*b*) without prejudice to the generality of paragraph (1), the Court may discharge the person committed and may give such directions for dealing with the thing taken by the bailiff as it thinks fit.

Saving for other powers

765.—(1) Nothing in rules 758 to 764 shall be taken as affecting the power of the Court to make an order requiring a person guilty of contempt of Court, or a person punishable by virtue of any written law in like manner as if he had been guilty of contempt of Court, to pay a fine or to give security for his good behaviour.

(2) Rules 758 to 764, so far as applicable, and with the necessary modifications, apply in relation to an application for such an order referred to in paragraph (1) as they apply in relation to an application for an order of committal.

Form of warrant for committal

766.—(1) A warrant for committal must be in Form 161.

(2) The Registrar must assign a serial number to the warrant and must sign, seal and date the warrant whereupon the warrant shall be deemed to be issued.

(3) A warrant must not be issued unless at the time of the tender for issue, the person tendering it produces —

(*a*) the judgment or order on which the warrant is to issue, or a copy of that judgment or order;

(*b*) where the warrant may not issue without the leave of the Court, the order granting such leave or evidence of the granting of such leave; and

(*c*) the undertaking, declaration and indemnity in Form 142.

(4) Rule 714 applies to the execution of a warrant for committal.

Division 51 — Mandatory Order[7], Prohibiting Order[9], Quashing Order[10], etc.

No application for Mandatory Order[7], etc., without leave

767.—(1) An application for a Mandatory Order[7], Prohibiting Order[9] or Quashing Order[10] (called in this paragraph the principal application) —

(*a*) may include an application for a declaration; but

(*b*) must not be made, unless leave to make the principal application has been granted in accordance with this rule.

(2) An application for such leave must —

(*a*) be made by ex parte originating summons; and

(*b*) be supported —

(i) by a statement setting out the name and description of the applicant, the relief sought and the grounds on which it is sought; and

(ii) by an affidavit, to be filed when the application is made, verifying the facts relied on.

(3) The applicant must serve the ex parte originating summons, the statement and the supporting affidavit not later than the preceding day on the Attorney-General's Chambers.

(4) The Judge may, in granting leave, impose such terms as to costs and as to giving security as he thinks fit.

(5) The grant of leave under this rule to apply for a Prohibiting Order[9] or a Quashing Order[10] shall, if the Judge so directs, operate as a stay of the proceedings in question until the determination of the application or until the Judge otherwise orders.

(6) Despite paragraphs (4) and (5), leave must not be granted to apply for a Quashing Order[10] to remove any judgment, order, conviction or other proceeding for the purpose of it being quashed, unless —

(*a*) the application for leave is made within 3 months after the date of the proceeding or such other period (if any) as may be prescribed by any written law; or

(*b*) except where a period for the application is prescribed by any written law, the delay in the application is accounted for to the satisfaction of the Judge to whom the application for leave is made.

(7) For the purposes of paragraph (6), where the proceeding referred to in that paragraph is subject to appeal and a time is limited by law for the bringing of the appeal, the Judge may adjourn the application for leave until the appeal is determined or the time for appealing has expired.

Mode of applying for Mandatory Order[7], etc.

768.—(1) When leave has been granted to apply for a Mandatory Order[7], Prohibiting

Order[9] or Quashing Order[10] —

(*a*) the application for the order and any included application for a declaration must be made by summons to a Court in the originating summons in which leave was obtained; and

(*b*) unless the Judge granting leave has otherwise directed, there must be at least 8 clear days between the service of the summons and the date of the hearing.

(2) Unless the summons is filed within 14 days after such leave was granted, the leave shall lapse.

(3) The ex parte originating summons, the statement, the supporting affidavit, the order granting leave and the summons filed under paragraph (1) must —

(*a*) be served on all persons directly affected; and

(*b*) where they relate to any proceedings in or before a Court, and the object is either to compel the Court or its officer to do any act in relation to the proceedings or to quash them or any order made in the proceedings, be served —

(i) on the Registrar;

(ii) the other parties to the proceedings; and

(iii) where any objection to the conduct of the Judge is to be made, on the Judge.

(4) The applicant must file an affidavit before the hearing of the summons and the affidavit must —

(*a*) contain the names and addresses of, and the places and dates of service on, all persons who have been served with the said documents; and

(*b*) if any person who should be served under paragraph (3) has not been served, state that fact and the reason why service has not been effected.

(5) Where the Court hearing the summons is of the opinion that any person who should have been served (whether under paragraph (3) or otherwise) with the said documents has not been served, the Court may adjourn the hearing on such terms as it may direct in order for the said documents to be served on that person.

Statements and further affidavits

769.—(1) Subject to paragraph (2), no grounds may be relied upon or any relief sought at the hearing of the summons filed under rule 768 except the grounds and relief set out in that statement.

(2) The Court may on the hearing of the summons allow the said statement to be amended, and may allow further affidavits to be used if they deal with new matter arising out of any affidavit of any other party to the application.

(3) Where the applicant intends to ask to be allowed to amend his statement or use further affidavits, he must —

(*a*) give notice of his intention and of any proposed amendment of his statement to every other party; and

(*b*) serve a copy of such further affidavits on every other party.

(4) Every party to the application must serve a copy of the affidavits which he proposes to use at the hearing on every other party.

Right to be heard in opposition

770. On the hearing of any summons filed under rule 768, any person who wishes to oppose the summons and appears to the Court to be a proper person to be heard shall be heard notwithstanding that he has not been served with any documents.

Application for Quashing Order[10]

771.—(1) In an application for a Quashing Order[10] to remove any proceedings, the applicant may not question the validity of any order, warrant, commitment, conviction, inquisition or record unless —

(*a*) before the hearing of the summons filed under rule 768 he has served a copy of the summons verified by affidavit on the Attorney-General; or

(*b*) he accounts for his failure to do so to the satisfaction of the Court hearing the summons.

(2) Where a Quashing Order[10] is made in any such case, the order shall direct that the proceedings shall be quashed forthwith on their removal to the Family Division of the High Court.

Saving for person acting in obedience to Mandatory Order[7]

772. No action or proceeding may be begun or prosecuted against any person in respect of anything done in obedience to a Mandatory Order[7].

Power of Court to grant relief in addition to Mandatory Order[7], etc.

773.—(1) Subject to the Government Proceedings Act (Cap. 121), where the Court has made a Mandatory Order[7], Prohibiting Order[9], Quashing Order[10] or declaration, on hearing a summons filed under rule 768, and the Court is satisfied that the applicant has a cause of action that would have entitled him to any relevant relief if the relevant relief had been claimed in a separate action, the Court may also grant the applicant the relevant relief.

(2) For the purposes of determining whether the Court should grant the applicant any relevant relief under paragraph (1), or where the Court has determined that the applicant should be granted any such relief, the Court may give such directions, whether relating to the conduct of the proceedings or otherwise, as may be necessary for the purposes of making the determination or granting the relief, as the case may be.

(3) Before the Court grants any relevant relief under paragraph (1), any person who opposes the granting of the relief, and who appears to the Court to be a proper person to be heard, shall be heard.

(4) In this rule, "relevant relief" means any liquidated sum, damages, equitable relief or restitution.

Appeal to Court of Appeal

774. An appeal shall lie from an order made by a Judge in Chambers under this Division as it does in the case of an interlocutory order.

Application

775. This Division does not apply to any Family Court or Youth Court.

Division 52 — Application for Order for Review of Detention[11]

Application for Order for Review of Detention[11]

776.—(1) An application for an Order for Review of Detention[11] must be made by ex parte originating summons to a Judge and, subject to paragraph (2), must be supported by an affidavit by the person restrained showing that it is made at his instance and setting out the nature of the restraint.

(2) Where the person restrained is unable for any reason to make the affidavit

required by paragraph (1), the affidavit may be made by some other person on his behalf and that affidavit must state that the person restrained is unable to make the affidavit himself and for what reason.

Power of Court to whom ex parte application made

777.—(1) The Judge to whom an application under rule 776 is made may —

(*a*) make an Order for Review of Detention[11] forthwith; or

(*b*) direct that a summons for the Order for Review of Detention[11] be issued.

(2) The ex parte originating summons, the affidavit in support, the order of Court and the summons must be served on the person against whom the issue of the writ is sought and on such other persons as the Judge may direct.

(3) Unless the Judge otherwise directs, there must be at least 8 clear days between the service of the summons and the date named in the summons for the hearing.

Copies of affidavits to be supplied

778. Every party to an application for an Order for Review of Detention[11] must serve a copy of each of the affidavits which he proposes to use at the hearing on every other party.

Power to order release of person restrained

779.—(1) Without prejudice to rule 777(1), the Judge hearing an application for an Order for Review of Detention[11] may in his discretion order that the person restrained be released, and such order shall be a sufficient warrant to any superintendent of a prison or other person for the release of the person under restraint.

(2) During the hearing of the application, the person restrained need not be brought before the Court unless the Judge otherwise directs.

Return date for Order for Review of Detention[11]

780. Where an Order for Review of Detention[11] is made, the Judge who made the order must give directions as to the date on which the person under restraint is to be brought before the Court.

Service of Order for Review of Detention[11]

781.—(1) Subject to paragraph (2), an Order for Review of Detention[11] must be served personally on each of the persons to whom it is directed.

(2) An Order for Review of Detention[11] must be served by leaving it with an employee or agent of the person to whom the Order for Review of Detention[11] is directed at the place where the person restrained is confined or restrained —

(*a*) if it is not possible to serve the Order personally; or

(*b*) if the Order is directed to a superintendent of a prison or other public official.

Release and other directions

782. Upon the production of the person under restraint in Court, the Court may order that he be released forthwith or give such other directions as it deems fit.

Form of Order for Review of Detention[11]

783. An Order for Review of Detention[11] must be in Form 162.

Application

784. This Division is not applicable to any Family Court.

Division 53 — Administration and similar actions

Definitions

785. In this Division —

"administration action" means an action for the administration under the direction of the Court of the estate of a deceased person or for the execution under the direction of the Court of a trust;

"personal representatives" includes executors, administrators and trustees.

Determination of questions, etc., without administration

786.—(1) An action may be brought for the determination of any question or for any relief which could be determined or granted, as the case may be, in an administration action and a claim need not be made in the action for the administration or execution under the direction of the Court of the estate or trust in connection with which the

question arises or the relief is sought.

(2) Without prejudice to the generality of paragraph (1), an action may be brought for the determination of any of the following questions:

(*a*) any question arising in the administration of the estate of a deceased person or in the execution of a trust;

(*b*) any question as to the composition of any class of persons having a claim against the estate of a deceased person or a beneficial interest in the estate of such a person or in any property subject to a trust;

(*c*) any question as to the rights or interests of a person claiming to be a creditor of the estate of a deceased person or to be entitled under a will or on the intestacy of a deceased person or to be beneficially entitled under a trust.

(3) Without prejudice to the generality of paragraph (1), an action may be brought for any of the following reliefs:

(*a*) an order requiring a personal representative to furnish and, if necessary, verify accounts;

(*b*) an order requiring the payment into Court of money held by a person in his capacity as personal representative;

(*c*) an order directing a person to do or abstain from doing a particular act in his capacity as personal representative;

(*d*) an order approving any sale, purchase, compromise or other transaction by a person in his capacity as personal representative;

(*e*) an order directing any act to be done in the administration of the estate of a deceased person or in the execution of a trust which the Court could order to be done if the estate or trust were being administered or executed, as the case may be, under the direction of the Court.

Parties

787.—(1) All the personal representatives to which an administration or such an action referred to in rule 786 relates must be parties to the action.

(2) Where the action is brought by personal representatives, any of them who does not consent to being joined as a plaintiff must be made a defendant.

(3) Despite rule 351(2) and (3), and without prejudice to the powers of the Court under Division 9 of this Part, all the persons having a beneficial interest in or claim

against the estate or having a beneficial interest under the trust, as the case may be, to which an action referred to in paragraph (1) relates need not be parties to the action.

(4) The plaintiff may make all or any of the persons referred to in paragraph (3) a party to the action as he thinks fit, having regard to the nature of the relief or remedy claimed in the action.

(5) Where, in proceedings under a judgment or an order given or made in an action for the administration under the direction of the Court of the estate of a deceased person, a claim in respect of a debt or other liability is made against the estate by a person not a party to the action —

(*a*) no party other than the executors or administrators of the estate is entitled to appear in any proceedings relating to that claim without the leave of the Court; and

(*b*) the Court may direct or allow any other party to appear either in addition to, or in substitution for, the executors or administrators on such terms as to costs or otherwise as it thinks fit.

Grant of relief in action begun by originating summons

788.—(1) In an administration action or such an action referred to in rule 786, the Court may make any certificate or order and grant any relief to which the plaintiff may be entitled by reason of any breach of trust, wilful default or other misconduct of the defendant notwithstanding that the action was begun by originating summons.

(2) Paragraph (1) is without prejudice to the power of the Court to make an order under rule 512 in relation to the action.

Judgments and orders in administration actions

789.—(1) A judgment or an order for the administration or execution under the direction of the Court of an estate or trust need not be given or made unless in the opinion of the Court the questions at issue between the parties cannot properly be determined otherwise than under such a judgment or an order.

(2) Where an administration action is brought by a creditor of the estate of a deceased person or by a person claiming to be entitled under a will or on the intestacy of a deceased person or to be beneficially entitled under a trust, and the plaintiff alleges that no or insufficient accounts have been furnished by the personal representatives, as the case may be, then, without prejudice to its other powers, the Court —

(*a*) may order that proceedings in the action be stayed for a period specified in

the order and that the personal representatives shall furnish the plaintiff with proper accounts within that period; and

(*b*) may, if necessary to prevent proceedings by other creditors or by other persons claiming to be entitled as aforesaid, give judgment or make an order for the administration of the estate to which the action relates and include in it an order that no proceedings are to be taken under the judgment or order, or under any particular account or inquiry directed, without the leave of the Judge in person.

Conduct of sale of trust property

790. Where in an administration action an order is made for the sale of any property vested in personal representatives, those personal representatives shall have the conduct of the sale unless the Court otherwise directs.

Division 54 — Summary proceedings for possession of land

Proceedings to be brought by originating summons

791. A person who claims possession of land which he alleges is occupied solely by another person (not being a tenant holding over after the termination of the tenancy) who entered into or remained in occupation without the person's or his predecessor in title's licence or consent, may bring proceedings by originating summons in accordance with this Division.

Jurisdiction

792. The proceedings may be heard and determined by a Registrar, who may refer them to a Judge if he thinks they should properly be decided by the Judge.

Form of originating summons

793. The originating summons filed must include the following note at the end of the originating summons:

"*Note*: Any person occupying the premises who is not named as a defendant by this originating summons may apply to the Court personally or by solicitor to be joined as a defendant. If a person occupying the premises does not attend personally or by solicitor at the time and place mentioned above, the Court

will make such order as it thinks just and expedient.”.

Affidavit in support

794.—(1) The plaintiff must file, together with the originating summons, a supporting affidavit stating —

(*a*) his interest in the land;

(*b*) the circumstances in which the land has been occupied without licence or consent and in which his claim to possession arises; and

(*c*) that he does not know the name of any person occupying the land who is not named in the summons.

(2) Where the plaintiff is unable, after taking reasonable steps, to identify every person occupying the land for the purpose of making him a defendant, the plaintiff must in his affidavit —

(*a*) state that he has taken reasonable steps to identify the persons occupying the land who are not named in the summons; and

(*b*) describe the reasonable steps so taken.

Service of originating summons

795.—(1) Where any person in occupation of the land is named in the originating summons, the summons together with a copy of the supporting affidavit must be served on him —

(*a*) personally;

(*b*) by leaving a copy of the summons and affidavit or sending them to him at the premises; or

(*c*) in such other manner as the Court may direct.

(2) Where any person not named as a defendant is in occupation of the land, the summons must be served (whether or not it is also required to be served in accordance with paragraph (1)), unless the Court otherwise directs, by —

(*a*) affixing a copy of the summons and of the affidavit to the main door or other conspicuous part of the premises and, if practicable, inserting through the letter-box at the premises a copy of the summons and affidavit enclosed in a sealed transparent envelope addressed to “the occupiers”; or

(*b*) placing stakes in the ground at conspicuous parts of the occupied land, to each of which shall be affixed a sealed transparent envelope addressed to "the occupiers" and containing a copy of the summons and affidavit.

(3) Rule 508 does not apply to proceedings under this Division.

Application by occupier to be made a party

796. Without prejudice to rules 353 and 358, any person not named as a defendant who is in occupation of the land and wishes to be heard on the question whether an order for possession should be made may apply at any stage of the proceedings to be joined as a defendant.

Order for possession

797.—(1) A final order for possession must not, except in case of emergency and by leave of the Court, be made less than 7 days after the date of service of the summons.

(2) An order for possession must be in Form 163.

(3) Nothing in this Division shall prevent the Court from ordering possession to be given on a specified date, in the exercise of any power which could have been exercised if possession had been claimed in an action begun by writ.

Writ of possession

798.—(1) Rule 692(2) does not apply in relation to an order for possession under this Division but no writ of possession to enforce such an order shall be issued after the expiry of 3 months from the date of the order without the leave of the Court.

(2) An application for leave may be made ex parte unless the Court otherwise directs.

(3) The writ of possession must be in Form 164.

Setting aside order

799. The Court may, on such terms as it thinks just, set aside or vary any order made in proceedings under this Division.

Division 55 — Appeals to Family Division of High Court from court, tribunal or person

Application

800.—(1) Subject to paragraphs (2) and (4), this Division applies to every appeal which under any written law lies to the Family Division of the High Court from any court, tribunal or person.

(2) This Division does not apply to an appeal from a Family Court or Youth Court, or any application by case stated.

(3) Rules 801 to 806 shall, in relation to an appeal to which this Division applies, have effect subject to any provision made in relation to that appeal by any other provision of these Rules or under any written law.

(4) In this Division, references to a tribunal are to be construed as references to any tribunal constituted under any written law other than any of the ordinary courts of law.

Bringing of appeal

801.—(1) An appeal to which this Division applies shall be by way of rehearing and must be brought by originating summons.

(2) Every originating summons by which such an appeal is brought must be filed in the Registry.

(3) The originating summons must —

(*a*) state the grounds of the appeal; and

(*b*) if the appeal is against a judgment, an order or other decision of a Court, state whether the appeal is against the whole or a part of that decision and, if against a part only, specify the part.

(4) The appeal shall not operate as a stay of proceedings on the judgment, determination or other decision against which the appeal is brought unless the Court which hears the appeal or the court, tribunal or person by which or by whom the decision was given so orders.

Service of originating summons and entry of appeal

802.—(1) The following persons must be served with the originating summons of the appeal:

(*a*) if the appeal is against a judgment, an order or other decision of a Court —

(i) the Registrar or clerk of the Court; and

(ii) any party to the proceedings in which the decision was given who is directly affected by the appeal;

(*b*) if the appeal is against an order, a determination, an award or other decision of a tribunal, Minister, Government department or other person —

(i) the chairman of the tribunal, Minister, Government department or person, as the case may be; and

(ii) every party to the proceedings (other than the appellant) in which the decision appealed against was given.

(2) The originating summons must be served within 28 days after the date of the judgment, order, determination or other decision against which the appeal is brought.

(3) Where an appeal is against a judgment, an order or a decision of a Court, the period specified in paragraph (2) must be calculated from the date of the judgment or order or the date on which the decision was given.

(4) Where an appeal is against an order, a determination, an award or other decision of a tribunal, Minister, Government department or other person, the period specified in paragraph (2) must be calculated from the date on which notice of decision was given to the appellant by the person who made the decision or by a person authorised in that behalf to do so.

Date of hearing of appeal

803. Unless the Court having jurisdiction to determine otherwise directs, an appeal to which this Division applies must not be heard sooner than 21 days after service of the originating summons.

Amendment of grounds of appeal, etc.

804.—(1) The originating summons may be amended by the appellant, without leave, by serving an amended originating summons not less than 7 days before the date of the hearing of the appeal, on each of the persons on whom the originating summons to be amended was served.

(2) Except with the leave of the Court hearing any such appeal, the appellant may not, at the hearing, rely on any grounds other than those stated in the originating summons by which the appeal is brought or any amended originating summons under paragraph (1).

(3) Despite paragraph (2), the Court may amend the grounds so stated or make any other order, on such terms as it thinks just, to ensure the determination on the merits of the real question in controversy between the parties.

(4) Paragraphs (1), (2) and (3) are without prejudice to the powers of the Court under

Division 14 of this Part.

Powers of Court hearing appeal

805.—(1) The Court hearing an appeal to which this Division applies shall have the powers conferred by paragraphs (2) to (9) in addition to the powers conferred by rule 804(2) and (3).

(2) The Court may require further evidence on questions of fact, and the evidence may be given in such manner as the Court may direct, including by oral examination in Court, affidavit, deposition taken before an examiner or in any other manner.

(3) The Court may draw any inferences of fact which might have been drawn in the proceedings out of which the appeal arose.

(4) The appellant must —

(*a*) apply to the Judge or other person presiding at the proceedings in which the decision appealed against was given for a signed copy of any note made by him of the proceedings; and

(*b*) furnish that copy for the use of the Court.

(5) Where the note in paragraph (4) is not produced or is incomplete, in addition to that note, the Court may hear and determine the appeal on any other evidence or statement of what occurred in those proceedings as appears to the Court to be sufficient.

(6) Except where the Court otherwise directs, an affidavit or a note by a person present at the proceedings must not be used in evidence under paragraphs (4) and (5) unless it was previously submitted to the person presiding at the proceedings for his comments.

(7) The Court may —

(*a*) give any judgment or decision or make any order which ought to have been given or made by the court, tribunal or person and make such further or other order as the case may require; or

(*b*) remit the matter with the opinion of the Court for rehearing and determination by that court, tribunal or person.

(8) The Court may, in special circumstances, order such security to be given for the costs of the appeal as may be just.

(9) The Court shall not be bound to allow the appeal on the ground of misdirection, or of the improper admission or rejection of evidence, unless in the opinion of the Court

substantial wrong or miscarriage has been thereby occasioned.

Right of Minister, etc., to appear and be heard

806. Where an appeal to which this Division applies is against an order, a determination or other decision of a Minister or Government department, the Minister or Government department, as the case may be, is entitled to appear and be heard in the proceedings on the appeal.

Division 56 — Applications to Family Division of High Court by case stated

Application

807.—(1) Subject to paragraphs (2) and (4), this Division applies to every application for an order to state a case and application by way of case stated which under any written law lies to the Family Division of the High Court from any tribunal or person.

(2) This Division does not apply to an application arising out of proceedings in a Family Court or Youth Court.

(3) Rules 808 to 812 shall, in relation to an application to which this Division applies, have effect subject to any provision made in relation to that application by any other provision of these Rules or under any written law.

(4) In this Division, references to a tribunal are to be construed as references to any tribunal constituted under any written law other than any of the ordinary courts of law.

Application for order to state a case

808.—(1) An application to the Court for an order directing a Minister, tribunal or other person to state a case for determination by the Court or to refer a question of law to the Court by way of case stated must be made by originating summons supported by an affidavit.

(2) The originating summons must be served on the Minister, secretary of the tribunal or other person, as the case may be, and every party (other than the applicant) to the proceedings to which the application relates.

(3) The supporting affidavit must state the grounds of the application, the question of law on which it is sought to have the case stated and any reasons given by the Minister, tribunal or other person for his or its refusal to state a case, if any.

Signing and service of case

809.—(1) A case stated by a tribunal must be signed by the chairman or president of the tribunal, and a case stated by any other person must be signed by that other person or by a person authorised in that behalf to do so.

(2) The case must —

(*a*) be served on the party at whose request, or as a result of whose application to the Court, the case was stated; and

(*b*) if a Minister, tribunal, arbitrator or other person is entitled by virtue of any enactment to state a case, or to refer a question of law by way of case stated, for determination by the Family Division of the High Court without request being made by any party to the proceedings before that person, be served on such party to those proceedings as the Minister, tribunal, arbitrator or other person, as the case may be, thinks appropriate.

(3) When a case is served on any party under paragraph (2), notice must be given to every other party to the proceedings in question that the case has been served on the party named, and on the date specified, in the notice.

Proceedings for determination of case

810.—(1) Proceedings for the determination by the Family Division of the High Court of a case stated, or a question of law referred by way of case stated, by a Minister, tribunal, arbitrator or other person must be begun by originating summons —

(*a*) by the person on whom the case was served in accordance with rule 809(2); or

(*b*) where the case is stated without a request being made, by the Minister, secretary of the tribunal, arbitrator or other person by whom the case is stated.

(2) The applicant must serve the originating summons under paragraph (1), together with a copy of the case, on —

(*a*) the Minister, secretary of the tribunal, arbitrator or other person by whom the case was stated, unless that Minister, tribunal, arbitrator or other person is the applicant;

(*b*) every party (other than the applicant) to the proceedings in which the question of law to which the case relates arose; and

(*c*) any other person (other than the applicant) served with the case under

rule 809(2).

(3) The originating summons must set out the applicant's contentions on the question of law to which the case stated relates.

(4) The originating summons must be filed and served within 14 days after the case stated was served on the applicant.

(5) If the applicant fails to file the originating summons within the period specified in paragraph (4) or any other period extended by an order of the Court, then, after obtaining a copy of the case from the Minister, tribunal, arbitrator or other person by whom the case was stated, any other party to the proceedings in which the question of law to which the case relates arose may, within 14 days after the expiration of that period or extended period, begin proceedings for the determination of the case.

(6) Paragraphs (1) to (4) apply, with the necessary modifications, to any other party referred to in paragraph (5) who begins proceedings for the determination of the case.

(7) Unless the Court having jurisdiction to determine the case otherwise directs, the originating summons must not be heard sooner than 7 days after service of it.

Amendment of case

811. The Court hearing a case stated by a Minister, tribunal, arbitrator or other person may amend the case or order it to be returned to that person for amendment, and may draw inferences of fact from the facts stated in the case.

Right of Minister to appear and be heard

812. In proceedings for the determination of a case stated, or of a question of law referred by way of case stated, the Minister, chairman or president of the tribunal, arbitrator or other person by whom the case was stated is entitled to appear and be heard.

Division 57 — Appeals from Registrar in proceedings in Family Courts

Application

813. This Division applies only to proceedings in the Family Courts.

Appeals from decisions of Registrar to District Judge in Chambers

814.—(1) An appeal shall lie to a District Judge in Chambers from any judgment,

order or decision of the Registrar in Chambers.

(2) The Chief Justice may, from time to time, direct that such class or classes or description of proceedings be heard in Chambers, and any such proceedings, whether heard in Court or in Chambers, shall be deemed to have been heard in Chambers for the purpose of paragraph (1).

(3) The appeal must be brought by serving on every other party to the proceedings in which the judgment, order or decision was given or made a notice in Form 165 to attend before the District Judge in Chambers on a day specified in the notice.

(4) Unless the Court otherwise orders, the notice must —

(*a*) be issued within 14 days after the judgment, order or decision appealed against was given or made; and

(*b*) be served on all other parties within 7 days after the notice has been issued.

(5) Unless the Court otherwise directs, an appeal under this rule shall not operate as a stay of the proceedings in which the appeal is brought.

Expedited appeals

815.—(1) Where an appeal is one of urgency, any party may apply to a judge of a Family Court for such directions as may be appropriate with a view to expediting the appeal.

(2) The application must be made by summons supported by an affidavit, unless a judge of the Family Court gives leave for the application to be made orally.

(3) The application may be made at any stage of the proceedings.

(4) A judge of the Family Court may deal with the application in such manner as the judge considers fit in the interests of justice, including by dispensing with the compliance of this or any other rule or any practice directions, or directing that the rule or practice directions be modified in its or their application to the proceedings.

(5) Any party seeking a revocation or variation of any directions made under this rule, or seeking any further directions, may apply in the manner provided in this rule.

Division 58 — Appeals from Registrar in proceedings in Family Division of High Court

Appeals from decisions of Registrar to judge of Family Division of High Court in Chambers

816.—(1) An appeal shall lie to a judge of the Family Division of the High Court in Chambers from any judgment, order or decision of the Registrar made in the Family Division of the High Court.

(2) The appeal must be brought by serving on every other party to the proceedings in which the judgment, order or decision was given or made a notice in Form 165 to attend before a Judge on a day specified in the notice.

(3) Unless the Court otherwise orders, the notice must —

(*a*) be issued within 14 days after the judgment, order or decision appealed against was given or made; and

(*b*) be served on all other parties within 7 days after the notice has been issued.

(4) Unless the Court otherwise directs, an appeal under this rule shall not operate as a stay of the proceedings in which the appeal is brought.

Further arguments on judgment or order

817.—(1) An application to a Judge for further arguments under section 28B of the Supreme Court of Judicature Act (Cap. 322) must, subject to the provisions of that section, be made in accordance with practice directions.

(2) Unless the Registrar informs the party making the application within 14 days after the receipt of the application that the Judge requires further arguments, the Judge shall be deemed to have certified that he requires no further arguments.

(3) Upon hearing further arguments, the Judge may affirm, vary or set aside the judgment or order.

Leave to appeal against order or judgment of Judge

818.—(1) A party applying for leave under section 34 of the Supreme Court of Judicature Act (Cap. 322) to appeal against an order made, or a judgment given, by a Judge must file his application to the Judge within 7 days after the date of the order or judgment.

(2) A party who has obtained leave to appeal under this rule must file and serve the notice of appeal within one month after the date on which such leave was given.

Expedited appeals

819.—(1) Where an appeal is one of urgency, any party may apply to a judge of the Family Division of the High Court for such directions as may be appropriate with a view to expediting the appeal.

(2) The application must be made by summons supported by an affidavit, unless a judge of the Family Division of the High Court gives leave for the application to be made orally.

(3) The application may be made at any stage of the proceedings.

(4) A judge of the Family Division of the High Court may deal with the application in such manner as he considers fit in the interests of justice, including by dispensing with compliance of this or any other rule or any practice directions, or directing that the rule or practice directions be modified in its or their application to the proceedings.

(5) Any party seeking a revocation or variation of any directions made under this rule, or seeking any further directions, may apply in the manner provided in this rule.

Division 59 — Appeals from Family Courts

Definition

820. In this Division, "Court" means a Family Court.

Application of Division

821. This Division applies to an appeal to the Family Division of the High Court from any of the following orders made by a judge of the Family Court:

(*a*) an order for ancillary relief, under Chapter 4 of Part X of the Women's Charter (Cap. 353), pursuant to a writ of summons of divorce, judicial separation or nullity of marriage;

(*b*) an order, under Chapter 4 of Part X of the Women's Charter, varying in whole or in part an order for ancillary relief pursuant to a writ of summons for divorce, judicial separation or nullity of marriage;

(*c*) an order with respect to the title to or possession of property pursuant to section 59 of the Women's Charter;

(*d*) a protection order, or a variation or recission of a protection order, pursuant to section 65 or 67 of the Women's Charter;

(*e*) an order for the payment of any sum towards the maintenance of a wife or child pursuant to section 69 of the Women's Charter;

(*f*) an order for the enforcement, variation or recission of a maintenance order pursuant to section 71, 72 or 81 of the Women's Charter;

(*g*) an order made pursuant to an application under section 94 of the Women's Charter;

(*h*) an order for interim judgment under section 95(4) of the Women's Charter;

(*i*) a judgment of judicial separation under section 101 of the Women's Charter;

(*j*) a judgment of nullity under section 110 of the Women's Charter;

(*k*) an order for financial relief pursuant to section 121G of the Women's Charter;

(*l*) an order for the enforcement of any order of the Syariah Court pursuant to section 53 of the Administration of Muslim Law Act (Cap. 3);

(*m*) an adoption order made under the Adoption of Children Act (Cap. 4);

(*n*) an order relating to the custody, care and control of a child, the right of access to a child, the relocation of a child or the payment of any sum towards the maintenance of a child pursuant to an application under the Guardianship of Infants Act (Cap. 122);

(*o*) an order made under section 3 of the Inheritance (Family Provision) Act (Cap. 138);

(*p*) an order made under Part III (other than section 9 or 10) of the International Child Abduction Act (Cap. 143C);

(*q*) an order made under section 4 of the Legitimacy Act (Cap. 162);

(*r*) an order for the enforcement of a maintenance order made under the Maintenance of Parents Act (Cap. 167B) pursuant to section 10 of that Act;

(*s*) an order made pursuant to the Maintenance Orders (Facilities for Enforcement) Act (Cap. 168);

(*t*) a provisional maintenance order made under the Maintenance Orders (Reciprocal Enforcement) Act (Cap. 169);

(*u*) an order, a decision or a direction under section 17 or 18 of the Mental Capacity Act (Cap. 177A);

(*v*) a declaration made under section 19 of the Mental Capacity Act;

(*w*) an order making a decision on behalf of a person lacking capacity under section 20 of the Mental Capacity Act;

(*x*) an order relating to the appointment of a deputy or successor deputy

(including a variation or discharge of any such order) or an order revoking any such appointment or the powers conferred on any deputy or successor deputy, pursuant to sections 20 to 24 of the Mental Capacity Act;

(*y*) an order under section 38 of the Mental Capacity Act granting or refusing permission for an application to the Court under that Act;

(*z*) an order relating to the grant of probate of a will or letters of administration of an estate of a deceased person, or for the revocation of any such grant, or for a decree pronouncing for or against the validity of an alleged will, under the Probate and Administration Act (Cap. 251);

(*za*) an order relating to the administration of an estate of a deceased person;

(*zb*) an order made under the Status of Children (Assisted Reproduction Technology) Act 2013 (Act 16 of 2013);

(*zc*) an order made under section 17A(2) of the Supreme Court of Judicature Act (Cap. 322);

(*zd*) an order made under the Voluntary Sterilization Act (Cap. 347).

Application of Division to applications for new trial

822. This Division (except so much of rule 823(1) as provides that an appeal shall be by way of rehearing) applies to an application to the Family Division of the High Court for a new trial or to set aside a finding or judgment after trial, as it applies to an appeal to that Court, and references in this Division to an appeal and to an appellant are to be construed accordingly.

Notice of appeal

823.—(1) An appeal to the Family Division of the High Court from the Family Courts shall be by way of rehearing and must be brought by notice of appeal in Form 165.

(2) A notice of appeal may be given either in respect of the whole or of any specified part of the judgment or order of the Court below.

(3) Every notice of appeal must —

(*a*) state whether the whole or part only, and what part, of the judgment or order is complained of;

(*b*) contain an address for service; and

(*c*) be signed by the appellant or his solicitor.

(4) To avoid doubt, any party who wishes to contend that the decision of the Court below should be varied in any event must file and serve a notice of appeal.

(5) The appellant must, at the time of filing the notice of appeal, deposit in the Registry such sum as the Registrar may require towards the fee for making copies of the record of proceedings.

(6) The Registrar must —

(*a*) assign a number to the notice of appeal; and

(*b*) enter the appeal on the list of appeals, stating in that list the title of the cause or matter, the name of the appellant and his solicitor, if any, and the date of such entry.

(7) The notice of appeal must be served on all parties to the proceedings in the Court below who are directly affected by the appeal or their solicitors respectively at the time of filing the notice of appeal.

(8) Subject to rule 829, the notice need not be served on parties not so affected.

Security for costs

824.—(1) The appellant must at the time of filing the notice of appeal provide security for the respondent's costs of the appeal in the sum of $3,000 or such other sum as may be fixed from time to time by the Chief Justice.

(2) The appellant must provide the security referred to in paragraph (1) by —

(*a*) depositing the sum in the Registry or with the Accountant-General and obtaining a certificate in Form 166; or

(*b*) procuring an undertaking in Form 167 from his solicitor and filing a certificate in Form 168.

(3) The Family Division of the High Court may at any time, in any case where it thinks fit, order further security for costs to be given.

Time for appealing

825. Subject to this rule, every notice of appeal must be filed and served under rule 823(7) within 14 days —

(*a*) in the case of an appeal against the refusal of an application, after the date

of the refusal; and

(*b*) in all other cases, after the date on which the judgment or order appealed against was pronounced.

Record of proceedings

826.—(1) When a notice of appeal has been filed, the Judge who gave the judgment or made the order must, unless the judgment was written, certify in writing the grounds of the judgment or order.

(2) If the Judge does not give a certified grounds of the judgment or order within 3 months after the date of the notice of appeal, the appellant must nonetheless proceed with the appeal and apply in writing to the Registrar for a copy of the record of proceedings referred to in paragraph (4).

(3) As soon as possible after the notice of appeal has been filed, the Registrar shall cause to be served on the appellant or his solicitor, at his address for service specified in the notice of appeal, a notice that a copy of the record of proceedings is available and thereupon the appellant or his solicitor must pay the prescribed fee for the record of proceedings.

(4) The record of proceedings must consist of —

(*a*) a certified copy of the judgment or grounds of judgment or order (if any); and

(*b*) a copy of the certified transcript of the official record of hearing taken at the hearing of the cause or matter.

Record of appeal and Appellant's Case

827.—(1) Within one month after service of the notice referred to in rule 826(3), the appellant must —

(*a*) file the record of appeal, and subject to rule 828, the Appellant's Case referred to in that rule; and

(*b*) serve a copy each of the record of appeal and the Appellant's Case on every respondent to the appeal or his solicitor.

(2) The record of appeal must consist of a copy of each of the following:

(*a*) the notice of appeal;

(*b*) the certificate of payment of security for costs;

(*c*) the record of proceedings referred to in rule 826(4);

(*d*) the affidavits of evidence-in-chief;

(*e*) the documents in the nature of pleadings;

(*f*) other documents, so far as are relevant to the matter decided and the nature of the appeal;

(*g*) the judgment or order appealed from.

(3) The appellant's solicitors must send a draft index of the documents to be included in the record of appeal to the respondent's solicitors who or (if more than one) any of whom may within 3 days object to the inclusion or exclusion of any document.

(4) Where in preparing the record of appeal one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists on its being included, the record of appeal must, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate, in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

(5) Where an appellant fails to comply with paragraph (1), the appeal shall be deemed to have been withdrawn, but nothing in this rule shall be deemed to limit or restrict the powers of the Family Division of the High Court to extend time.

(6) Where an appeal is deemed to have been withdrawn pursuant to paragraph (5) and all the parties to the appeal consent to the payment, to the appellant, of any sum lodged in Court as security for the costs of the appeal —

(*a*) the appellant must file the document signifying such consent signed by the parties or by their solicitor; and

(*b*) where the appellant has filed the document referred to in sub-paragraph (*a*), any sum lodged in Court as security for the costs of the appeal shall be paid out to the appellant.

(7) In the event of a cross-appeal, a joint record of appeal may be filed if all the parties to the appeal and the cross-appeal consent.

(8) Written notice of intention to file such a joint record must be given to the Registrar within the time specified in paragraph (1).

(9) Subject to paragraph (7), any party to the appeal or the cross-appeal may apply to the Registrar for directions as to the filing of the record of appeal.

Preparation of Cases

828.—(1) The appellant must file his Case (called in this Division the Appellant's Case) within the time specified in rule 827.

(2) The respondent must file his Case (called in this Division the Respondent's Case) —

(*a*) within one month after service on him of the record of appeal and the Appellant's Case; or

(*b*) where a joint record of appeal is filed, within one month after service on him of the Appellant's Case.

(3) The form of the Case must comply with the following requirements:

(*a*) it must consist of paragraphs numbered consecutively;

(*b*) it must state, as concisely as possible —

(i) the circumstances out of which the appeal arises;

(ii) the issues arising in the appeal;

(iii) the contentions to be urged by the party filing it and the authorities in support of the contentions; and

(iv) the reasons for or against the appeal, as the case may be;

(*c*) it must be in the same size and style as the record of appeal with alphabetical lettering in the left hand margin at every fifth line, the first letter "A" being placed against the first line in each page, and with references in the right hand margin to the relevant pages of the record of appeal;

(*d*) care must be taken to avoid, as far as possible, the recital of long extracts from the record of appeal.

(4) If a party —

(*a*) is abandoning any point taken in the Court below; or

(*b*) intends to apply in the course of the hearing for leave to introduce a new point not taken in the Court below,

this must be stated clearly in the Case.

(5) If the new point referred to in paragraph (4)(*b*) involves the introduction of fresh

evidence —

(*a*) this must be stated clearly in the Case; and

(*b*) an application for leave must be made under rule 831 to adduce the fresh evidence.

(6) A respondent who, not having appealed from the decision of the Court below, desires to contend on the appeal that the decision of that Court should be varied in the event of an appeal being allowed in whole or in part, or that the decision of that Court should be affirmed on grounds other than those relied upon by that Court, must state so in his Case, specifying the grounds of that contention.

(7) Except with the leave of the Family Division of the High Court, a respondent is not entitled on the hearing of the appeal —

(*a*) to contend that the decision of the Court below should be varied upon grounds not specified in his Case;

(*b*) to apply for any relief not so specified; or

(*c*) to support the decision of the Court below upon any grounds not relied upon by that Court or specified in his Case.

(8) A Case may be amended at any time with the leave of the Family Division of the High Court.

(9) Except to such extent as may be necessary to the development of the argument, a Case need not —

(*a*) set out or summarise the judgment of the Court below;

(*b*) set out statutory provisions; or

(*c*) contain an account of the proceedings below or of the facts of the case.

(10) Every Case must conclude with a numbered summary of the reasons upon which the argument is founded, and must bear the name and signature of the solicitor who prepared the Case or who will appear before the High Court.

(11) The solicitor of any party, in drafting a Case, should assume that it will be read in conjunction with the documents included in the record of appeal.

(12) All the appellants may join in one Appellants' Case, and all the respondents may similarly join in one Respondents' Case.

(13) A party whose interest in the appeal is passive (such as a stake-holder, a trustee or an executor) is not required to file a separate Case but should ensure that his position

is explained in one of the Cases filed.

(14) The filing of a joint Case on behalf of both appellant and respondent may be permitted in special circumstances.

(15) A party to an appeal must —

(*a*) file together with his Case a bundle of authorities relied on by the Court below as well as other authorities to be relied on at the hearing of the appeal; and

(*b*) serve such bundle of authorities on the other party.

(16) A respondent who fails to file his Case within the time specified in paragraph (2) may be heard only with the leave of the Family Division of the High Court and on such terms and conditions as it may impose.

(17) Where 2 or more appeals arise from the same judgment or order below, an appellant or a respondent to one or more of the appeals may apply to the Family Division of the High Court for leave to file a single Case or record of appeal covering all such appeals.

Directions of Court as to service

829.—(1) The Family Division of the High Court may, in any case, direct that the record of appeal and the Cases be served on any party to the proceedings in the Court below on whom it has not been served, or on any person not party to those proceedings.

(2) In any case in which the Family Division of the High Court directs the record of appeal and the Cases to be served on any party or person, the Family Division of the High Court may also direct that a Case be filed by such party or person.

(3) The Family Division of the High Court may in any case where it gives a direction under this rule —

(*a*) postpone or adjourn the hearing of the appeal for such period and on such terms as may be just; and

(*b*) give such judgment and make such order on the appeal as might have been given or made if the persons served pursuant to the direction had originally been parties.

Withdrawal of appeal

830.—(1) An appellant may, at any time before his appeal is called on for hearing, file and serve on the parties to the appeal a notice to the effect that he does not intend

further to prosecute the appeal.

(2) If all parties to the appeal consent to the intended withdrawal of the appeal —

(*a*) the appellant must file the document signifying such consent signed by the parties or by their solicitor; and

(*b*) the appeal shall thereupon be deemed to have been withdrawn and must be struck out of the list of appeals by the Registrar.

(3) In the event referred to in paragraph (2), and where there are no other outstanding issues (including any issues as to costs) among all parties to the appeal —

(*a*) any sum lodged in Court as security for the costs of the appeal must be paid out to the appellant; and

(*b*) where there is an undertaking for any security for the costs of the appeal, the party who has given the undertaking may, with the consent of all the other parties, obtain a discharge of the undertaking by filing a Notice of Discharge in Form 169.

(4) If all the parties do not consent to the intended withdrawal of the appeal, the appeal —

(*a*) must remain on the list; and

(*b*) must come on —

(i) for the hearing of any issue as to costs or otherwise which remain outstanding between the parties; and

(ii) for the making of an order as to the disposal of any sum lodged in Court as security for the costs of the appeal.

General powers of Court

831.—(1) The Family Division of the High Court has the power to receive further evidence on questions of fact, either by oral examination before it, by affidavit, or by deposition taken before an examiner.

(2) Despite paragraph (1), in the case of an appeal from a judgment after trial or hearing of any cause or matter on the merits, no such further evidence (other than evidence as to matters which have occurred after the date of trial or hearing) shall be admitted except on special grounds.

(3) The Family Division of the High Court has the power to —

(*a*) draw inferences of fact and to give any judgment and make any order which ought to have been given or made; and

(*b*) to make such further or other order as the case may require.

(4) The powers of the Family Division of the High Court under paragraphs (1), (2) and (3) may be exercised even if —

(*a*) no notice of appeal has been given in respect of any particular part of the decision of the Court below or by any particular party to the proceedings in that Court; or

(*b*) any ground for allowing the appeal or for affirming or varying the decision of that Court is not specified in any of the Cases filed pursuant to rule 828 or 829,

and the Family Division of the High Court may make any order, on such terms as it thinks just, to ensure the determination on the merits of the real question in controversy between the parties.

(5) The powers of the Family Division of the High Court in respect of an appeal shall not be restricted by reason of any interlocutory order from which there has been no appeal.

Powers of Court as to new trial

832.—(1) On the hearing of any appeal, the Family Division of the High Court may, if it thinks fit, make any such order as could be made pursuant to an application for a new trial or to set aside any finding or judgment of the Court below.

(2) The Family Division of the High Court shall not be bound to order a new trial on the ground of misdirection, or of the improper admission or rejection of evidence, unless in its opinion some substantial wrong has been thereby occasioned.

(3) A new trial may be ordered on any question without interfering with the finding or decision on any other question.

(4) If it appears to the Family Division of the High Court that any such wrong referred to in paragraph (2) affects part only of the matter in controversy, or only one or some of the parties, the Family Division of the High Court may order a new trial as to that part only, or as to that party or those parties only, and give final judgment as to the remainder.

(5) In any appeal on the ground that damages awarded are excessive or inadequate, the Family Division of the High Court may, in lieu of ordering a new trial —

(*a*) substitute for the sum awarded such sum as appears to it to be proper; or

(*b*) reduce or increase the sum awarded by such amount as appears to it to be proper in respect of any distinct head of damages erroneously included in or excluded from the sum so awarded.

(6) Other than in the circumstances provided for in paragraph (5), the Family Division of the High Court shall not have power to reduce or increase the damages.

(7) A new trial shall not be ordered by reason of the ruling of any Judge that a document is sufficiently stamped or is not required to be stamped.

Stay of execution, etc.

833.—(1) Except so far as the Court below or the Family Division of the High Court may otherwise direct —

(*a*) an appeal shall not operate as a stay of execution or of proceedings under the decision of the Court below; and

(*b*) no intermediate act or proceeding shall be invalidated by an appeal.

(2) On an appeal, interest for such time as execution has been delayed by the appeal must be allowed unless the Family Division of the High Court otherwise orders.

Extension of time

834. Without prejudice to the power of the Family Division of the High Court under rule 15, to extend the time prescribed by any provision of this Division, the period for filing and serving the notice of appeal under rule 825 may be extended by the Court below on application made before the expiration of that period.

Appellant or respondent not appearing

835.—(1) If on any day fixed for the hearing of an appeal, the appellant does not appear in person or by an advocate, the appeal may be dismissed.

(2) If the appellant appears, and any respondent fails to appear, either in person or by an advocate, the appeal shall proceed in the absence of such respondent, unless the Family Division of the High Court for any sufficient reason sees fit to adjourn the hearing of the appeal.

(3) Where any appeal is dismissed or allowed under paragraph (1) or (2) —

(*a*) the party who was absent may apply to the Family Division of the High

Court for the rehearing of the appeal; and

(*b*) where it is proved that there was sufficient reason for the absence of such party, the Family Division of the High Court may order the appeal to be restored for hearing upon such terms as to costs or otherwise as it thinks fit.

Expedited appeals

836.—(1) Where an appeal is one of urgency, any party may apply to a judge of the Family Division of the High Court for such directions as may be appropriate with a view to expediting the appeal.

(2) The application must be made by summons supported by an affidavit, unless a judge of the Family Division of the High Court, gives leave for the application to be made orally.

(3) The application may be made at any stage of the proceedings.

(4) A judge of the Family Division of the High Court may deal with the application in such manner as the judge considers fit in the interests of justice, including by dispensing with the compliance of this or any other rule or any practice directions, or directing that the rule or practice directions be modified in its or their application to the proceedings.

(5) Any party seeking a revocation or variation of any directions made under this rule, or seeking any further directions, may apply in the manner provided in this rule.

Enforcement of judgments which have been subject-matter of appeal

837. Any steps for the execution or enforcement of a judgment or an order which has been the subject-matter of an appeal must be taken in the Family Courts.

Division 60 — Appeals from judges of Family Courts to Family Division of High Court in Chambers

Appeals from decisions of judges of Family Courts other than appeals to which Division 59 applies

838.—(1) An appeal shall lie to a judge of the Family Division of the High Court in Chambers from any judgment, order or decision of a judge of a Family Court (not given or made in his capacity as the Registrar), including a judgment given, or an order or a decision made, on appeal from the Registrar.

(2) Despite paragraph (1), this Division does not apply to any order made by a judge

of a Family Court to which an appeal under Division 59 of this Part applies.

Notice of appeal

839.—(1) An appeal under this Division must be brought by notice of appeal in Form 165.

(2) The notice of appeal must —

(*a*) be issued within 14 days after the judgment, order or decision appealed against was given or made; and

(*b*) be served on every other party to the proceedings in which that judgment, order or decision was given or made, within 7 days after the notice is issued.

(3) Where an application for further arguments has been made —

(*a*) no notice of appeal shall be filed in respect of the judgment, order or decision until the Court —

(i) affirms, varies or sets aside the judgment, order or decision after hearing further arguments; or

(ii) certifies, or is deemed to have certified, that it requires no further arguments; and

(*b*) the time for filing a notice of appeal in respect of the judgment, order or decision shall begin on the date the Court —

(i) affirms, varies or sets aside the judgment, order or decision after hearing further arguments; or

(ii) certifies, or is deemed to have certified, that it requires no further arguments.

(4) For the purposes of paragraph (3), unless the Registrar informs the party making the application within 14 days after the receipt of the application that the Court requires further arguments, the Court shall be deemed to have certified that it requires no further arguments.

Stay of proceedings

840. Except so far as the Court may otherwise direct, an appeal under this Division shall not operate as a stay of the proceedings in which the appeal is brought.

Enforcement of judgments which have been subject-matter of appeal

841. The steps for the execution or enforcement of a judgment or an order which has been the subject-matter of an appeal must be taken in the Family Justice Courts.

Expedited appeals

842.—(1) Where an appeal is one of urgency, any party may apply to a judge of the Family Division of the High Court for such directions as may be appropriate with a view to expediting the appeal.

(2) An application must be made by summons supported by an affidavit, unless a judge of the Family Division of the High Court gives leave for the application to be made orally.

(3) The application may be made at any stage of the proceedings.

(4) A judge of the Family Division of the High Court may deal with the application in such manner as the judge considers fit in the interests of justice, including by dispensing with the compliance with this or any other rule or any practice directions, or directing that the rule or practice directions be modified in its or their application to the proceedings.

(5) Any party seeking a revocation or variation of any directions made under this rule, or seeking any further directions, may apply in the manner provided in this rule.

Division 61 — Transfer of proceedings from Family Court to High Court and vice versa

Applications under section 29(1) of Family Justice Act 2014

843.—(1) An application under section 29(1) of the Family Justice Act 2014 (Act 27 of 2014) must be made by summons to the Registrar.

(2) The Registrar is to hear the application in the Family Division of the High Court.

(3) The Registrar hearing the application may order the proceedings in the Family Court to be stayed until after the final determination of the application.

Applications under section 29(2) of Family Justice Act 2014

844.—(1) An application to the Family Division of the High Court under section 29(2) of the Family Justice Act 2014 (Act 27 of 2014) must be made by summons.

(2) The Court hearing the application may order the proceedings in the Family Division of the High Court to be stayed until after the final determination of the application.

Notice of transfer

845. Where the Court has made an order for the transfer of proceedings under rule 843 or 844, the Registrar must give notice of the transfer to every party to the proceedings.

Division 62 — Constitutional Case

Reference by Family Court

846.—(1) This Division shall, despite rule 2, apply where in any proceedings including criminal proceedings in a Family Court a question arises as to the interpretation or effect of any provision of the Constitution and the Court has pursuant to section 395 of the Criminal Procedure Code (Cap. 68) stayed the proceedings and has stated the question in the form of a Case.

(2) Every Case stated under section 395 of the Criminal Procedure Code must —

(*a*) be divided into paragraphs, concisely state such facts and include such documents as may be necessary to enable the High Court to decide the question raised by the Case; and

(*b*) be signed by a judge of the Family Court or Registrar, as the case may be.

(3) On receipt of the Case, the Registrar of the Supreme Court must lay the same before a Judge of the High Court and serve a copy of the Case on the Attorney-General.

(4) On consideration of the Case transmitted under section 395(6) of the Criminal Procedure Code, where a Judge considers that the decision on a question as to the effect of any provision of the Constitution is necessary for the determination of such proceedings, the Judge shall deal with the Case as if it were a case before him in the original jurisdiction of the High Court in which such a question has arisen.

Mode of dealing with Case

847.—(1) Where a Case has been transmitted to the High Court, it shall subject to the provisions of this rule be dealt with and regarded in all ways as an application to the High Court.

(2) The Case is to be treated as the record of proceedings.

(3) The plaintiff or the prosecution in the proceedings in the Family Court, as the case may be, is to be treated as the applicant and all other parties as respondents.

(4) The judgment of the High Court must be in the form of an answer to the question set out in the Case.

(5) The Registrar of the Supreme Court must serve a notice of the hearing of the Case by the High Court on the Attorney-General and every party to the proceedings in which the Case arose.

Certificate on Case

848. The Registrar of the Supreme Court must deliver to the Attorney-General, the Registrar of the Family Justice Courts and every party to the proceedings in which the Case arose a copy of the judgment of the High Court.

Proceedings in Family Court

849.—(1) Where the High Court has given judgment on the Case and the proceedings in the Family Court in which the Case arose are still pending, the Family Court must continue such proceedings and dispose of the proceedings according to law.

(2) The Family Court must determine all questions and make all necessary orders regarding costs therein but no order for costs incurred in the High Court may be made.

Division 63 — Costs

Definitions

850.—(1) In this Division —

"contentious business" has the same meaning as in the Legal Profession Act (Cap. 161);

"costs" includes fees, charges, disbursements, expenses and remuneration;

"standard basis" and "indemnity basis" have the meanings assigned to them by rule 878(2) to (5) accordingly;

"taxed costs" means costs taxed in accordance with this Division.

(2) In this Division —

(*a*) references to a fund, being a fund out of which costs are to be paid or which is held by a trustee or personal representative, include references to any estate or property, whether movable or immovable, held for the benefit of any person or class of persons; and

(*b*) references to a fund held by a trustee or personal representative include references to any fund to which he is entitled (whether alone or together with any other person) in that capacity, whether the fund is for the time being in his possession or not.

(3) The item referred to in the first column of the table below, when used in an order for costs, shall have the effect indicated opposite in the second column.

TABLE

Term	*Effect*
"Costs"	Where this order is made in interlocutory proceedings, the party in whose favour it is made will be entitled to his costs in respect of those proceedings whatever the outcome of the cause or matter in which the proceedings arise.
"Costs reserved"	The party in whose favour an order for costs is made at the conclusion of the cause or matter in which the proceedings arise will be entitled to his costs of the proceedings in respect of which this order is made unless the Court otherwise orders.
"Costs in any event"	This order has the same effect as an order for "costs" except that the costs is to be taxed only after the conclusion of the cause or matter in which the proceedings arise.
"Costs here and below"	The party in whose favour this order is made will be entitled not only to his costs in respect of the proceedings in which it is made but also to his costs of the same proceedings in any lower court, tribunal or other body constituted under any written law or in arbitral proceedings.
"Costs in the cause" or "costs in application"	The party in whose favour an order for costs is made at the conclusion of the cause or matter in which the proceedings arise is entitled to his costs

	of the proceedings in respect of which such an order is made.
"Plaintiff's costs in the cause" or "Defendant's costs in the cause"	The plaintiff or defendant, as the case may be, will be entitled to his costs of the proceedings in respect of which such an order is made if judgment is given in his favour in the cause or matter in which the proceedings arise, but he shall not be liable to pay the costs of any other party in respect of those proceedings if judgment is given in favour of any other party or parties in the cause or matter in question.
"Costs thrown away"	Where proceedings or any part of the proceedings have been ineffective or have been subsequently set aside, the party in whose favour this order is made will be entitled to his costs of those proceedings or that part in respect of which it is made.

Application

851.—(1) Where by virtue of any written law the costs of or incidental to any proceedings before an arbitrator or umpire or before a tribunal or other body constituted under any written law, not being proceedings in the Family Division of the High Court, are taxable in the Family Division of the High Court, this Division shall have effect in relation to proceedings for taxation of those costs as it has effect in relation to proceedings for taxation of the costs of or arising out of proceedings in that Court.

(2) Subject to the express provisions of any written law and of these Rules, the costs of and incidental to proceedings in the Family Justice Courts, including the administration of estates and trusts, shall be in the discretion of the Court, and the Court has full power to determine by whom and to what extent the costs are to be paid.

When costs to follow the event

852.—(1) Subject to the following provisions of this Division, a party is not entitled to recover any costs of or incidental to any proceedings from any other party to the proceedings except under an order of the Court.

(2) If the Court in its discretion sees fit to make any order as to the costs of or

incidental to any proceedings, the Court shall, subject to this Division, order the costs to follow the event, except when it appears to the Court that in the circumstances of the case some other order should be made as to the whole or any part of the costs.

(3) The costs of and occasioned by any amendment made without leave in the writ of summons or any pleadings must be borne by the party making the amendment, unless the Court otherwise orders.

(4) The costs of and occasioned by any application to extend the time fixed by these Rules, or any direction or order thereunder, for serving or filing any document or doing any other act (including the costs of any order made on the application) must be borne by the party making the application, unless the Court otherwise orders.

(5) If a party on whom a notice to admit facts is served under rule 501 refuses or neglects to admit the facts within 14 days after the service on him of the notice or such longer time as may be allowed by the Court, the costs of proving the facts must be paid by him, unless the Court otherwise orders.

(6) If a party —

(*a*) on whom a list of documents is served pursuant to any provision of Division 19 of this Part; or

(*b*) on whom a notice to admit documents is served under rule 504,

gives notice of non-admission of any of the documents in accordance with rule 503(3) or 504(2), as the case may be, the costs of proving that document must be paid by him, unless the Court otherwise orders.

(7) Where a defendant by notice in writing and without leave discontinues his counterclaim against any party or withdraws any particular claim made by him in the counterclaim against any party, that party is, unless the Court otherwise directs, entitled to his costs of the counterclaim or his costs occasioned by the claim withdrawn, as the case may be, incurred to the time of receipt of the notice of discontinuance or withdrawal.

(8) Where a plaintiff accepts money paid into Court by a defendant who counterclaimed against him, then, if the notice of payment given by that defendant stated that he had taken into account and satisfied the cause of action or, as the case may be, all the causes of action in respect of which he counterclaimed, that defendant is, unless the Court otherwise directs, entitled to his costs of the counterclaim incurred to the time of receipt of the notice of acceptance by the plaintiff of the money paid into Court.

Stage of proceedings at which costs to be dealt with

853.—(1) The Court may deal with costs at any stage of the proceedings or after the conclusion of the proceedings.

(2) Unless the Court otherwise orders, any costs ordered must be paid forthwith even if the proceedings have not been concluded.

(3) In the case of an appeal, the Court hearing the appeal may deal with the costs of the proceedings giving rise to the appeal, as well as the costs of the appeal and of the proceedings connected with it.

(4) Where any proceedings are transferred or removed to the Family Division of the High Court from any other court, the Family Division of the High Court may deal with the costs of the whole proceedings, both before and after the transfer or removal.

(5) Where under paragraph (3) or (4) the Court makes an order as to the costs of any proceedings before another Court, rules 878, 881 and 882 will not apply in relation to those costs, but, except in relation to costs of proceedings transferred or removed from a State Court or Family Court, the order —

(*a*) must specify the amount of the costs to be allowed;

(*b*) must direct that the costs is to be assessed by the Court before which the proceedings took place; or

(*c*) if the order is made on appeal from a Family Court, in relation to proceedings in that Court, may direct that the costs shall be taxed by the Registrar of the Family Justice Courts.

Special matters to be taken into account in exercising discretion

854. The Court in exercising its discretion as to costs must, to such extent, if any, as may be appropriate in the circumstances, take into account —

(*a*) any payment of money into Court and the amount of such payment;

(*b*) the conduct of all the parties, including conduct before and during the proceedings;

(*c*) the parties' conduct in relation to any attempt at resolving the cause or matter by mediation or any other means of dispute resolution; and

(*d*) in particular, the extent to which the parties have followed any relevant pre-action protocol or practice directions.

Restriction of discretion to order costs

855.—(1) Despite anything in this Division or under any written law, unless the Court

is of the opinion that there was no reasonable ground for opposing the will, no order shall be made for the costs of the other side to be paid by the party opposing a will in a probate action who has given notice with his defence to the party setting up the will that he —

(*a*) merely insists upon the will being proved in solemn form of law; and

(*b*) only intends to cross-examine the witnesses produced in support of the will.

(2) Where a person is or has been a party to any proceedings in the capacity of trustee, personal representative or mortgagee, he shall, unless the Court otherwise orders, be entitled to the costs of those proceedings, in so far as they are not recovered from or paid by any other person, out of the fund held by the trustee or personal representative or out of the mortgaged property, as the case may be.

(3) The Court may otherwise order, under paragraph (2), only on the ground that —

(*a*) the trustee, personal representative or mortgagee has acted unreasonably; or

(*b*) where the fund is held by the trustee or personal representative, the trustee or personal representative has in substance acted for his own benefit rather than for the benefit of the fund.

Costs due to unnecessary claims or issues

856. In addition to and not in derogation of any other provision in this Division, where a party has failed to establish any claim or issue which he has raised in any proceedings, and has thereby unnecessarily or unreasonably protracted, or added to the costs or complexity of, those proceedings, the Court may order —

(*a*) that the costs of that party shall not be allowed in whole or in part; or

(*b*) that any costs occasioned by that claim or issue to any other party shall be paid by him to that other party, regardless of the outcome of the cause or matter.

Costs arising from misconduct or neglect

857.—(1) Where it appears to the Court in any proceedings that anything has been done, or that any omission has been made, unreasonably or improperly by or on behalf of any party, the Court may order —

(*a*) that the costs of that party in respect of the act or omission, as the case may be, shall not be allowed; and

(*b*) that any costs occasioned by that party to any other party shall be paid by

him to that other party.

(2) Without prejudice to the generality of paragraph (1), the Court must for the purpose of that paragraph have regard to the following matters:

(*a*) the omission to do anything the doing of which would have been calculated to save costs;

(*b*) the doing of anything calculated to occasion, or in a manner or at a time calculated to occasion unnecessary costs;

(*c*) any unnecessary delay in the proceedings.

(3) The Court may, instead of giving an order under paragraph (1), direct the Registrar to inquire into the act or omission and, if it appears to the Registrar that such an order should have been given in relation to it, to act as if the appropriate order had been given.

(4) The Registrar shall, in relation to anything done or omission made in the Court of taxation and in relation to any failure to procure taxation, have the same power to disallow or to award costs as the Court has under paragraph (1) to order that costs shall be disallowed to or paid by any party.

(5) Where a party entitled to costs fails to procure or fails to proceed with taxation, the Registrar may, in order to prevent any other parties being prejudiced by that failure —

(*a*) allow the party so entitled a nominal or other sum for costs; or

(*b*) certify the failure and the costs of the other parties.

Costs of taxation proceedings

858.—(1) Subject to the provisions of any written law and this Division, the party whose bill is being taxed is entitled to his costs of the taxation proceedings.

(2) The party liable to pay the costs of the proceedings which gave rise to the taxation proceedings may make a written offer to pay a specific sum in satisfaction of those costs which is expressed to be "without prejudice except as to the costs of taxation" at any time before the expiration of 7 days after the delivery to him of a copy of the bill of costs under rule 874.

(3) Where an offer is made under paragraph (2), the fact that it has been made must not be communicated to the Registrar until the question of the costs of the taxation proceedings falls to be decided.

(4) The Registrar may take into account any offer made under paragraph (2) which has been brought to his attention.

Personal liability of solicitor for costs

859.—(1) Subject to this rule, where it appears to the Court that costs have been incurred unreasonably or improperly in any proceedings or have been wasted by failure to conduct proceedings with reasonable competence and expedition, the Court may make against any solicitor whom it considers to be responsible (whether personally or through an employee or agent) one or more of the following orders:

(*a*) disallowing the costs as between the solicitor and his client;

(*b*) directing the solicitor to repay to his client costs which the client has been ordered to pay to other parties to the proceedings;

(*c*) directing the solicitor personally to indemnify such other parties against costs payable by them.

(2) No order under this rule shall be made against a solicitor unless he has been given a reasonable opportunity to appear before the Court and show cause why the order should not be made.

(3) Paragraph (2) does not apply where any proceedings in Court or in Chambers cannot conveniently proceed, and fails or is adjourned without useful progress being made —

(*a*) because of the solicitor's failure to attend in person or by a proper representative; or

(*b*) because of the solicitor's failure to deliver any document for the use of the Court which ought to have been delivered or to be prepared with any proper evidence or account or otherwise to proceed.

(4) Before making an order under this rule, the Court may, if it thinks fit —

(*a*) refer the matter (except in the case of undue delay in the drawing up of, or in any proceedings under, any order or judgment which the Registrar has reported to the Court) to the Registrar for inquiry; and

(*b*) report and direct the solicitor in the first place to show cause before the Registrar.

(5) The Court may, if it thinks fit, direct or authorise the Attorney-General to attend and take part in any proceedings or inquiry under this rule, and may make such order as it thinks fit as to the payment of his costs.

(6) The Court may direct that notice of any proceedings or order against a solicitor under this rule shall be given to his client in such manner as may be specified in the direction.

(7) Where in any proceedings before the Registrar on taxation the solicitor representing any party is guilty of neglect or delay or puts any other party to any unnecessary expense in relation to those proceedings, the Registrar may direct the solicitor to pay costs personally to any of the parties to those proceedings.

(8) Where any solicitor fails to leave his bill of costs for taxation within the time fixed by an order of Court or otherwise delays or impedes the taxation, the solicitor shall not be allowed the fees to which he would otherwise be entitled for drawing his bill of costs and for attending the taxation, unless the Registrar otherwise directs.

(9) On the taxation of any bill of costs, if one-half or more of the total amount of the bill is taxed off, the Registrar may make one or both of the following orders:

(*a*) that the solicitor who presented the bill be disallowed the costs for the work done for and in the taxation of costs;

(*b*) that the solicitor who presented the bill —

(i) stamp the bill with the whole amount of fees which would be payable if the bill was allowed by the Registrar at the full amount of that fees;

(ii) be entitled to be reimbursed by the paying party (in the case of a bill between party and party) or his client (in the case of a bill between the solicitor and his client) only the amount of fees payable on the amount allowed on taxation;

(iii) pay personally the difference between the amounts of fees mentioned in sub-paragraphs (i) and (ii); and

(iv) pay personally the fee payable for the Registrar's Certificate.

(10) Where the Registrar makes one or both of the orders under paragraph (9), he must make a note to that effect on the bill of costs and the order or orders must be included in the Registrar's Certificate.

Fractional or gross sum in place of taxed costs

860.—(1) Subject to this Division, where under these Rules or any order or direction of the Court costs are to be paid to any person, that person is entitled to his taxed costs.

(2) Paragraph (1) does not apply to costs which under any order or direction of the Court —

(*a*) are to be paid to a receiver appointed by the High Court under section 4(10) of the Civil Law Act (Cap. 43) for his remuneration, disbursements or expenses; or

(*b*) are to be assessed or settled by the Registrar, but rules 878, 881 and 882 will apply in relation to the assessment or settlement by the Registrar of such costs.

(3) Where a writ in an action is endorsed in accordance with rule 298(1)(*b*) and judgment is entered in default of appearance or of defence for the amount claimed for costs (whether alone or together with any other amount claimed), paragraph (1) does not apply to those costs.

(4) Despite paragraph (3), if the amount claimed for costs in that paragraph is paid in accordance with the endorsement (or is accepted by the plaintiff as if so paid) the defendant shall nevertheless be entitled to have those costs taxed.

(5) The Court in awarding costs to any person may direct that, instead of taxed costs, that person is to be entitled —

(*a*) to a proportion specified in the direction of the taxed costs or to the taxed costs from or up to a stage of the proceedings so specified; or

(*b*) to a gross sum so specified in lieu of taxed costs.

When party may sign judgment for costs without order

861.—(1) Where —

(*a*) a plaintiff by notice in writing and without leave either wholly discontinues his action against any defendant or withdraws any particular claim in the action against any defendant; or

(*b*) an action, a cause or matter is deemed discontinued,

the defendant may, unless the Court otherwise orders, tax his costs of the action, cause or matter and if the taxed costs are not paid within 4 days after taxation, may sign judgment for them.

(2) The reference to a defendant in paragraph (1) is to be construed as a reference to the person (howsoever described) who is in the position of defendant in the proceeding in question, including a proceeding on a counterclaim.

(3) If a plaintiff accepts money paid into Court in satisfaction of the cause of action, or all the causes of action, in respect of which he claims, or if he accepts a sum or sums paid in respect of one or more specified causes of action and gives notice that he abandons the others, then subject to paragraph (4), he may —

(*a*) after 4 days from payment out and unless the Court otherwise orders, tax his costs incurred to the time of receipt of the notice of payment into Court; and

(*b*) 48 hours after taxation, sign judgment for his taxed costs.

(4) Where money paid into Court in an action is accepted by the plaintiff after the trial or hearing has begun, the plaintiff shall not be entitled to tax his costs under paragraph (3).

(5) When an appeal is deemed to have been withdrawn under Division 59 of this Part —

(*a*) the respondent may —

(i) tax his costs of and incidental to the appeal; and

(ii) if the taxed costs are not paid within 4 days after taxation, sign judgment for them; and

(*b*) any sum of money lodged in Court as security for the costs of the appeal shall —

(i) be paid out to the respondent towards satisfaction of the judgment for taxed costs without an order of the Court; and

(ii) the balance, if any, be paid to the appellant.

When order for taxation of costs not required

862.—(1) When an action or application is dismissed with costs, an order of the Court directs the payment of any costs, or any party is entitled under rule 861 to tax his costs, no order directing the taxation of those costs need be made.

(2) Where a summons is taken out to set aside with costs any proceeding on the ground of irregularity and the summons is dismissed but no direction is given as to costs, the summons is to be taken as having been dismissed with costs.

Power of Registrar to tax costs

863. The Registrar of the Family Justice Courts shall have power to tax —

(*a*) the costs of or arising out of any cause or matter in the Family Justice Courts;

(*b*) the costs directed by an award made on a reference to arbitration under any written law or pursuant to an arbitration agreement to be paid;

(*c*) any other costs directed by an order of the Court to be taxed; and

(*d*) any costs directed to be taxed or settled by or under any written law.

Supplementary powers of Registrar

864. The Registrar may, in the discharge of his functions with respect to the taxation of costs —

(*a*) take an account of any dealings in money made in connection with the payment of the costs being taxed, if the Court so directs;

(*b*) require any party represented jointly with any other party in any proceedings before him to be separately represented;

(*c*) examine any witness in those proceedings; and

(*d*) direct the production of any document which may be relevant in connection with those proceedings.

Extension, etc., of time

865.—(1) The Registrar may —

(*a*) extend the period within which a party is required under this Division to begin proceedings for taxation or to do anything in or in connection with proceedings before the Registrar; and

(*b*) where no period is specified under this Division or by the Court for the doing of anything in or in connection with such proceedings, specify the period within which the thing is to be done.

(2) Where an order of the Court specifies a period within which anything is to be done by or before the Registrar, the Registrar may, unless the Court otherwise directs, from time to time extend the period so specified on such terms (if any) as he thinks just.

(3) The Registrar may extend any such period referred to in paragraphs (1) and (2) although the application for extension is not made until after the expiration of that period.

Interim certificates

866.—(1) The Registrar may from time to time in the course of the taxation of any costs by him issue an interim certificate for any part of those costs which has been taxed.

(2) If, in the course of the taxation of a solicitor's bill to his own client, it appears to the Registrar that in any event the solicitor will be liable in connection with that bill to pay money to the client, the Registrar may from time to time issue an interim certificate specifying an amount which in his opinion is payable by the solicitor to his client.

(3) On the filing of a certificate issued under paragraph (2), the Court may order the amount specified in the certificate to be paid forthwith to the client or into Court.

Power of Registrar where party liable to be paid and to pay costs

867. Where a party entitled to be paid costs is also liable to pay costs, the Registrar may —

(*a*) tax the costs which that party is liable to pay and set off the amount allowed against the amount he is entitled to be paid and direct payment of any balance; or

(*b*) delay the issue of a certificate for the costs the party is entitled to be paid until he has paid or tendered the amount he is liable to pay.

Taxation of bill of costs comprised in account

868.—(1) Where the Court directs an account to be taken and the account consists in part of a bill of costs —

(*a*) the Court may direct the Registrar to tax those costs; and

(*b*) the Registrar must tax the costs in accordance with the direction and return the bill of costs, after its taxation, together with his report on the taxation to the Court.

(2) Where the Registrar taxes a bill of costs in accordance with a direction under this rule, he shall have the same powers, and the same fees shall be payable in connection with the taxation as if an order for taxation of the costs had been made by the Court.

Registrar to fix certain fees payable to conveyancing counsel, etc.

869.—(1) Where the Court refers any matter to any solicitor or obtains the assistance of any other person under rule 555, the fees payable to the solicitor or that other person for the work done by him in connection with the reference or in assisting the Court, as

the case may be, shall be fixed by the Registrar.

(2) An appeal from the decision of the Registrar under this rule shall lie to the Court, and the decision of the Court shall be final.

Compensatory costs for litigants in person

870. On a taxation of the costs of a litigant in person, such costs as would reasonably compensate the litigant for the time expended by him, together with all expenses reasonably incurred may be allowed.

Costs for more than 2 solicitors

871.—(1) Subject to paragraph (3), costs for getting up the case by and for attendance in Court of more than 2 solicitors for a party shall not be allowed unless the Court so certifies —

(*a*) at the hearing; or

(*b*) upon an application made by that party within one month after the date of the judgment or order.

(2) Such costs may be allowed notwithstanding that the solicitors are members of the same firm of solicitors.

(3) Despite paragraph (1), the Court must be satisfied at the taxation of costs that the use of 2 solicitors is reasonable, having regard to paragraph 1 of Part 1 of the Third Schedule.

Mode of beginning proceedings for taxation

872. A party entitled to have his costs taxed must begin taxation proceedings of those costs by filing the bill of costs within 12 months after the date on which the entire cause or matter is finally disposed of, including any appeals from that cause or matter, unless the Court otherwise orders.

Notification of time appointed for taxation

873. Where taxation proceedings have been duly begun in accordance with rule 872, the Registrar must give to the party beginning the proceedings not less than 14 days' notice of the date and time appointed for taxation.

Delivery of bills, etc.

874.—(1) A party whose costs are to be taxed in any taxation proceedings must,

within 2 days after receiving a notice of the date and time under rule 873, send a copy of his bill of costs to every other party entitled to be heard in the proceedings.

(2) Notice need not be given to any party who has not entered an appearance or taken any part in the proceedings which gave rise to the taxation proceedings.

(3) Paragraph (2) does not apply where an order for the taxation of a solicitor's bill of costs made under the Legal Profession Act (Cap. 161), at the instance of the solicitor, gave rise to the taxation proceedings.

Form of bill of costs

875.—(1) Every bill of costs must set out in 3 separate sections the following:

(*a*) work done in the cause or matter, except for taxation of costs;

(*b*) work done for and in the taxation of costs;

(*c*) all disbursements made in the cause or matter.

(2) The costs claimed must —

(*a*) for paragraph (1)(*a*) and (*b*), be indicated as one global sum for each section; and

(*b*) for paragraph (1)(*c*), set out the sum claimed for each item of disbursement.

(3) Every bill of costs must be headed in the cause or matter to which the bill relates, with the name of the party whose bill it is, and the judgment, direction or order under which the bill is to be taxed, the basis of taxation and whether the bill is to be taxed between party and party or solicitor and client.

(4) A bill of costs must be endorsed with the name or firm and business address of the solicitor whose bill it is.

Provisions as to taxation proceedings

876.—(1) If any party entitled to be heard in any taxation proceedings does not attend within a reasonable time after the time appointed for the taxation, the Registrar, if satisfied by affidavit or otherwise that the party had due notice of the date and time appointed, may proceed with the taxation.

(2) The Registrar who conducts the taxation proceedings may, if he thinks it necessary to do so, adjourn those proceedings from time to time.

Powers of Registrar taxing costs payable out of fund

877.—(1) Where any costs are to be paid out of a fund, the Registrar may —

(*a*) give directions as to the parties who are entitled to attend on the taxation of those costs; and

(*b*) disallow the costs of attendance of any party not entitled to attend by virtue of the directions and whose attendance the Registrar considers unnecessary.

(2) Where the Court has directed that a solicitor's bill of costs be taxed for the purpose of being paid out of a fund, the Registrar who is taxing the bill may, if he thinks fit, adjourn the taxation for a reasonable period and direct the solicitor to send to any person having an interest in the fund a copy of the bill, or any party thereof, free of charge together with a letter containing the following information:

(*a*) that the bill of costs, a copy of which or of part of which is sent with the letter has been referred to the Registrar for taxation;

(*b*) that the taxation will take place at the Registrar's Chambers;

(*c*) the date and time appointed by the Registrar at which the taxation will be continued;

(*d*) such other information, if any, as the Registrar may direct.

Basis of taxation

878.—(1) Subject to these Rules, the amount of costs which any party is entitled to recover is the amount allowed after taxation on the standard basis where —

(*a*) an order is made that the costs of one party to proceedings be paid by another party to those proceedings;

(*b*) an order is made for the payment of costs out of any fund; or

(*c*) no order for costs is required,

unless it appears to the Court to be appropriate to order costs to be taxed on the indemnity basis.

(2) On a taxation of costs on the standard basis —

(*a*) there shall be allowed a reasonable amount in respect of all costs reasonably incurred; and

(*b*) any doubts which the Registrar may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party.

(3) In these Rules, the term "the standard basis", in relation to the taxation of costs, is to be construed in accordance with paragraph (2).

(4) On a taxation on the indemnity basis —

(*a*) all costs shall be allowed except in so far as they are of an unreasonable amount or have been unreasonably incurred; and

(*b*) any doubts which the Registrar may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the receiving party.

(5) In these Rules, the term "the indemnity basis", in relation to the taxation of costs, is to be construed in accordance with paragraph (4).

(6) Costs shall be taxed on the indemnity basis where the Court —

(*a*) makes an order for costs without indicating the basis of taxation; or

(*b*) makes an order that costs be taxed on any basis other than the standard basis or the indemnity basis.

(7) Despite paragraphs (1) to (6), if any action is brought in the Family Division of the High Court, which would have been within the jurisdiction of a Family Court or Youth Court, the plaintiff shall not be entitled to any more costs than he would have been entitled to if the proceedings had been brought in a Family Court or Youth Court unless in any such action a Judge certifies that there was sufficient reason for bringing the action in the High Court.

Costs payable to solicitor by his own client

879.—(1) This rule applies to every taxation of a solicitor's bill of costs to his own client.

(2) Where this rule applies, costs shall be taxed on the indemnity basis but shall be presumed —

(*a*) to have been reasonably incurred if they were incurred with the express or implied approval of the client;

(*b*) to have been reasonable in amount if their amount was, expressly or impliedly, approved by the client; and

(*c*) to have been unreasonably incurred if, in the circumstances of the case, they are of an unusual nature unless the solicitor satisfies the Registrar that prior to their being incurred the solicitor informed his client that they might

not be allowed on a taxation of costs inter partes.

(3) In paragraph (2), references to the client are to be construed —

(*a*) if the client at the material time lacked capacity within the meaning of the Mental Capacity Act (Cap. 177A) in relation to matters concerning his property and affairs and was represented by a person acting as litigation representative[3], as references to that person acting, where necessary, with the authority of the Court; and

(*b*) if the client was at the material time a minor and represented by a person acting as litigation representative[3], as references to that person.

(4) The delivery of a bill of costs by a solicitor to his client shall not preclude the solicitor from presenting a bill for a larger amount or otherwise for taxation, if taxation is ordered by the Court or is consented to by the solicitor and his client.

(5) Upon a taxation mentioned in paragraph (4), the solicitor is entitled to such amount as is allowed by the Registrar, despite that such amount may be more than that claimed in any previous bill of costs delivered to his client.

Costs payable to solicitor where money recovered by or on behalf of minor, etc.

880.—(1) This rule applies to —

(*a*) any proceedings where money is claimed or recovered by or on behalf of, or adjudged or ordered or agreed to be paid to, or for the benefit of, a person who is a minor, or who lacks capacity within the meaning of the Mental Capacity Act (Cap. 177A) in relation to matters concerning his property and affairs, or in which money paid into Court is accepted by or on behalf of such a person; and

(*b*) any proceedings under the Civil Law Act (Cap. 43) —

(i) where money is recovered by or on behalf of, or adjudged or ordered or agreed to be paid to, or for the benefit of, the widow of the person whose death gave rise to the proceedings in satisfaction of a claim under that Act or in which money paid into Court is accepted by her or on her behalf in satisfaction of such a claim; and

(ii) the proceedings were also for the benefit of a person who, when the money is recovered, or adjudged or ordered or agreed to be

paid, or accepted, is a minor.

(2) The costs payable by any plaintiff to his solicitor in any proceedings to which this rule applies by virtue of paragraph (1)(*a*) or (*b*), being the costs of those proceedings or incident to the claim in or consequent on those proceedings, shall be taxed under rule 879.

(3) In a case in paragraph (2), no costs shall be payable to the solicitor of any plaintiff in respect of those proceedings except such amount of costs as may be certified in accordance with this rule on the taxation under rule 879 of the solicitor's bill of costs to the plaintiff.

(4) On the taxation under rule 879 of a solicitor's bill to any plaintiff, who is his own client, in any proceedings to which this rule applies by virtue of paragraph (1)(*a*) or (*b*), the Registrar must also tax any costs payable to that plaintiff in those proceedings and must certify —

(*a*) the amount allowed on the taxation under rule 879, the amount allowed on the taxation of any costs payable to that plaintiff in those proceedings and the amount (if any) by which the first-mentioned amount exceeds the other; and

(*b*) where necessary, the proportion of the amount of the excess payable respectively by, or out of money belonging to, any party to the proceedings who —

(i) is a minor;

(ii) lacks capacity within the meaning of the Mental Capacity Act in relation to matters concerning his property and affairs; or

(iii) is the widow of the man whose death gave rise to the proceedings and any other party.

(5) Nothing in paragraphs (1) to (4) shall prejudice a solicitor's lien for costs.

(6) Paragraphs (1) to (5) apply in relation to —

(*a*) a counterclaim by or on behalf of a person who —

(i) is a minor; or

(ii) lacks capacity within the meaning of the Mental Capacity Act in relation to matters concerning his property and affairs; and

(*b*) a counterclaim consisting of or including a claim under the Civil Law Act by or on behalf of the widow of the man whose death gave rise to the claim,

as if references to a plaintiff were substituted with references to a defendant.

Costs payable to trustee out of trust fund, etc.

881.—(1) This rule applies to every taxation of the costs which a person who is or has been a party to any proceedings in the capacity of trustee or personal representative is entitled to be paid out of any fund which he holds in that capacity.

(2) Where this rule applies, costs shall be taxed on the indemnity basis but shall be presumed to have been unreasonably incurred if they were incurred contrary to the duty of the trustee or personal representative as such.

Provisions for ascertaining costs on taxation

882.—(1) Subject to rules 850 to 881, the provisions in Part 1 of the Third Schedule for ascertaining the amount of costs to be allowed on a taxation of costs apply to the taxation of all costs with respect to contentious business.

(2) Despite paragraph (1), costs shall be allowed in the cases to which Part 2 of the Third Schedule applies in accordance with the provisions of that Part unless the Court otherwise orders.

Certificate

883. When the bill of costs has been taxed, the solicitor must cast up the deductions from the bill, which, with the casting of the bill, must be checked by the Registrar, and the Registrar must proceed to make his certificate for the amount of such costs less the deductions.

Certificate of Registrar to be conclusive unless set aside

884.—(1) Upon the taxation of the bill of costs, the certificate of the Registrar, unless set aside, shall be conclusive as to the amount thereof.

(2) Where the order contains a submission to pay, the solicitor may after 48 hours, if there is no application for review, issue execution in respect of the order.

Application to Judge for review

885.—(1) A party to a taxation proceedings who is dissatisfied with the allowance or

disallowance in whole or in part of any item by the Registrar, or with the amount allowed by the Registrar for any item, may apply to a Judge to review the taxation as to that item or part of an item, as the case may be.

(2) An application under this rule for review of the Registrar's decision may be made at any time within 14 days after that decision, or such longer time as the Registrar or the Court at any time may allow.

(3) An application under this rule must be made by summons and must, except where the Judge thinks fit to adjourn into Court, be heard in Chambers.

(4) An application under this rule for review of the Registrar's decision in respect of any item shall not prejudice the power of the Registrar under rule 866 to issue an interim certificate in respect of the items of his decision which are not the subject of the review.

(5) In this rule and rule 886, "Judge" means a judge of the Family Division of the High Court in person or a judge of the Family Court (who is a District Judge) in person.

Review of Registrar's decision by Judge

886.—(1) Unless the Judge otherwise directs, no further evidence shall be received on the hearing of the review of the Registrar's decision by the Judge.

(2) Except as provided in paragraph (1), the Judge may, on the hearing of the review, exercise all such powers and discretion as are vested in the Registrar in relation to the subject-matter of the application.

(3) At the conclusion of the review, the Judge may —

(*a*) make such order as the circumstances require; and

(*b*) in particular, order the Registrar's certificate to be amended or, except where the dispute as to the item under review is as to amount only, order the item to be remitted to the Registrar for taxation.

Interest on costs

887.—(1) The costs mentioned in the first column below shall carry interest at 6% per annum or such other rate as the Chief Justice may direct from the date mentioned in the second column until payment:

	First column	*Second column*
	Type of Costs	*Commencement Date*
(*a*)	Taxed costs	Date of taxation

(*b*)	Costs fixed by the Court	Date of order
(*c*)	Costs agreed between the parties	Date of agreement
(*d*)	Costs under Divisions 1, 2 and 3 of Part 2 of the Third Schedule	Date of judgment

(2) Costs under Division 4 of Part 2 of the Third Schedule shall not carry any interest.

Division 64 — The Registry

Distribution of business

888.—(1) The Registry is to be divided into such departments, and the business performed in the Registry is to be distributed among the departments in such manner, as the Chief Justice or the Presiding Judge of the Family Justice Courts, as the case may be, may direct.

(2) The Registry is to be under the control and supervision of the Registrar.

(3) The business of the Registry, including the collection, use or disclosure of data contained in any document filed in the Registry, are to be governed by these Rules and by practice directions.

Information to be maintained by Registry

889.—(1) The Registrar shall cause to be maintained such information as is prescribed or required to be kept by these Rules and by practice directions.

(2) The Registrar may maintain at his discretion all the information referred to in paragraph (1) in such medium or mode as he may determine.

Date of filing to be marked, etc.

890. Any document filed in the Registry in any proceedings must —

(*a*) be sealed with a seal showing the date on which the document was filed; and

(*b*) where the document is not required by these Rules to be sealed, show the date on which it was filed.

Right to search information and inspect, etc., certain documents filed in Registry

891.—(1) Subject to any practice directions, any person shall, on payment of the prescribed fee and without the leave of the Registrar, be entitled to search the information referred to in rule 889.

(2) Any person may, with the leave of the Registrar and on payment of the prescribed fee, be entitled —

(*a*) during office hours, at the Registry or a service bureau established under Division 68 of this Part, to search for, inspect and take a copy of any of the documents filed in the Registry; or

(*b*) to use the electronic filing service established under Division 68 of this Part to search for and inspect any of the documents filed in the Registry during the period permitted by the Registrar.

(3) Nothing in paragraph (2) is to be taken as preventing any party to a cause or matter from searching for, inspecting and taking or bespeaking a copy of any affidavit or other document filed in the Registry —

(*a*) in that cause or matter; or

(*b*) before the commencement of that cause or matter but made with a view to its commencement.

Deposit of document

892. Where the Court orders any documents to be lodged in Court, the documents must be deposited in the Registry unless the order directs the documents to be lodged by depositing the documents with the Accountant-General.

Restriction on removal of documents

893. No document filed in or in the custody of the Registry may be taken out of it without the leave of the Court unless the document is to be sent to a State Court or the Supreme Court, as the case may be.

Division 65 — Sittings, vacation and office hours

Vacation Judge

894. A judge of the Family Division of the High Court must be available during every vacation to act as a vacation Judge.

Hearing in vacation

895. Any matter which is required to be immediately or promptly heard shall be heard in vacation by the vacation Judge.

Days on which Registry is open and office hours

896.—(1) The Registry is to be open on every day of the year except on Saturdays, Sundays or public holidays.

(2) Despite paragraph (1), a Registrar may lawfully sit or carry out the business of the Registry on a Saturday, Sunday or public holiday if —

(*a*) the Presiding Judge of the Family Justice Courts, with the concurrence of the Chief Justice, has directed the Registrar to do so on that day; or

(*b*) in the opinion of the Registrar, the business to be despatched is extremely urgent.

(3) The Registry is to be open to the public on such hours as the Presiding Judge of the Family Justice Courts, with the concurrence of the Chief Justice, may from time to time direct.

Division 66 — Service of documents

When personal service required

897.—(1) Any document which is required, by these Rules, to be served on any person need not be served personally unless the document is, under these Rules or by a Court order, required to be so served.

(2) Paragraph (1) shall not affect the power of the Court under these Rules to dispense with the requirement for personal service.

Process server for personal service

898.—(1) Personal service must be effected by a process server of the Court, or by a solicitor by a solicitor's clerk whose name and particulars have been notified in the relevant Form to the Registrar for this purpose.

(2) Despite paragraph (1), the Registrar may, in a particular cause or matter, allow personal service to be effected by any other named person and must, in that case, cause to be marked on the document required to be served personally, a memorandum to that effect.

(3) Where the service of a document is attended with expense, a process server shall not, except by the Registrar's order, be bound to serve the document, unless reasonable expenses of the service have been tendered in the Registry by the party requiring the service.

(4) Where service is by a process server, the Registrar must forthwith give written notice to the plaintiff or person at whose instance the process is issued or to his solicitor, of the fact and manner of such service.

Effecting personal service

899.—(1) Personal service of a document is effected by leaving with the person to be served —

(*a*) in the case of an originating process, a sealed copy; and

(*b*) in any other case, a copy of the document.

(2) Personal service of a document may also be effected in such other manner as may be agreed between the party serving and the party to be served.

Personal service on body corporate

900. Personal service of a document on a body corporate may, where not otherwise provided by any written law, be effected by serving it in accordance with rule 899 on the chairman or president of the body, or the secretary, treasurer or other similar officer of the body.

Substituted service

901.—(1) Where any document is required to be served personally on any person, by these Rules, and it appears to the Court that it is impracticable for any reason to serve that document personally on that person, the Court may make an order in Form 170 for substituted service of that document.

(2) An application for an order for substituted service must be made by summons supported by an affidavit in Form 171 stating the facts on which the application is founded.

(3) Substituted service of a document, pursuant to an order made under this rule, is effected by taking such steps as the Court may direct to bring the document to the notice of the person to be served.

(4) For the purposes of paragraph (3), the steps which the Court may direct to be taken for substituted service of a document to be effected include the use of such

electronic means (including electronic mail or Internet transmission) as the Court may specify.

Effecting ordinary service

902.—(1) Service of any document, not being a document which by virtue of these Rules is required to be served personally, may be effected —

(*a*) by leaving the document at the proper address of the person to be served;

(*b*) by post;

(*c*) by FAX in accordance with paragraph (4);

(*d*) in such other manner as may be agreed between the party serving and the party to be served; or

(*e*) in such other manner as the Court may direct.

(2) For the purpose of this rule, and of section 2 of the Interpretation Act (Cap. 1), in its application to this rule, the proper address of any person on whom a document is to be served in accordance with this rule shall be the address for service of that person.

(3) Despite paragraph (2), if at the time when service is effected the person who is to be served has no address for service, his proper address for service shall be —

(*a*) in any case, the business address of the solicitor (if any) who is acting for him in the proceedings in which service of the document in question is to be effected;

(*b*) in the case of an individual, his usual or last known address;

(*c*) in the case of individuals who are suing or being sued in the name of a firm, the principal or last known place of business of the firm within the jurisdiction; and

(*d*) in the case of a body corporate, the registered or principal office of the body.

(4) Service by FAX may be effected where —

(*a*) the party serving the document acts by a solicitor;

(*b*) the party on whom the document is served acts by a solicitor and service is effected by transmission to the business address of that solicitor;

(*c*) the solicitor acting for the party on whom the document is served has indicated in writing to the solicitor serving the document that he is willing

to accept service by FAX at a specified FAX number and the document is transmitted to that number; and

(*d*) within 3 days after the day of service by FAX the solicitor acting for the party serving the document serves a copy of it on the solicitor acting for the other party by any of the other methods of service set out in paragraph (1), and if he fails to do so, the document shall be deemed never to have been served by FAX.

(5) For the purpose of paragraph (4)(*c*), the inscription of a FAX number on the writing paper of a solicitor shall not be deemed to indicate that such a solicitor is willing to accept service by FAX at that number in accordance with that paragraph.

(6) For the purposes of paragraph (1)(*e*), the manner in which the Court may direct service of any document to be effected includes the use of such electronic means (including electronic mail or Internet transmission) as the Court may specify.

(7) Nothing in this rule is to be taken as prohibiting the personal service of any document or as affecting any written law which provides for the manner in which documents may be served on bodies corporate.

Time for service

903. Where any document is served before midnight on any particular day, it shall be deemed to have been served on that day.

Service on Minister, etc., in proceedings which are not by or against Government

904. Where for the purpose of or in connection with any proceedings, not being civil proceedings by or against the Government within the meaning of Part III of the Government Proceedings Act (Cap. 121), any document is required by any written law or these Rules to be served on the Minister of a Government department which is an authorised department for the purposes of that Act, or on such a department or on the Attorney-General, section 20 of that Act and Order 73, Rule 3 of the Rules of Court (Cap. 322, R 5) will apply in relation to the service of the document as they apply in relation to the service of documents required to be served on the Government for the purpose of or in connection with any civil proceedings by or against the Government.

Effect of service after certain hours

905.—(1) Where the service of any document is effected under these Rules on a working day before 4 p.m., it shall, for the purpose of computing any period of time after service of that document, be deemed to have been served on that working day, and, in

any other case, on the working day next following.

(2) To avoid doubt, nothing in this rule is to be construed as prescribing the hours within which service must be effected in order to be valid.

Affidavit of service

906. An affidavit of service of any document must —

(*a*) state by whom the document was served;

(*b*) state the day of the week and date on which it was served;

(*c*) state where and how it was served; and

(*d*) be in one of the forms in Form 172.

No service required in certain cases

907. Where under these Rules any document is required to be served on any person but not required to be served personally, and at the time when service is to be effected that person is in default as to entry of appearance or has no address for service, the document need not be served on that person unless the Court otherwise directs or these Rules otherwise provides.

Dispensation of service

908. The Court may, in an appropriate case, dispense with service of any document on any person.

Division 67 — Paper, printing, notices and copies

Quality and size of paper

909. Unless the nature of the document renders it impracticable, every document prepared by a party for use in the Court must be on paper of durable quality, approximately 297 millimetres long, by 210 millimetres wide, having a margin not less than 25.4 millimetres wide to be left blank on either side of the paper.

Regulations as to printing, etc.

910.—(1) Except where these Rules otherwise provide, every document prepared by a party for use in the Court must be produced by one of the following means:

(*a*) printing;

(*b*) typewriting otherwise than by means of a carbon;

(*c*) partly by printing and partly by typewriting otherwise than by means of a carbon.

(2) For the purpose of these Rules a document shall be deemed to be printed if it is produced by type lithography or stencil duplicating.

(3) Any type used in producing a document for use in the Court —

(*a*) must be such as to give a clear and legible impression; and

(*b*) must not be smaller than 11 point type for printing or elite type for type lithography, stencil duplicating or typewriting.

(4) Any document produced by a photographic or similar process giving a positive and permanent representation free from blemishes is, to the extent that it contains a facsimile of any printed or typewritten matter, to be treated for the purposes of these Rules as if it were printed or typewritten, as the case may be.

(5) Any notice required by these Rules may not be given orally except with the leave of the Court.

Copies of documents for other party

911.—(1) Where a document is prepared by a party for use in Court, that party must, on receiving a written request from any other party entitled to a copy of that document (not being a party on whom it has been served) —

(*a*) supply that other party with a copy;

(*b*) on payment of the proper charges, supply that other party with such number of further copies, not exceeding 10, as may be specified in the request; and

(*c*) where the document in question is an affidavit, supply that other party with any document exhibited to it.

(2) The copy must be ready for delivery within 48 hours after a written request for it, together with an undertaking to pay the proper charges, is received and must be supplied thereafter on payment of those charges.

Requirements as to copies

912.—(1) Before a copy of a document is supplied to a party under these Rules, it must be endorsed with the name and address of the party or solicitor who supplied it.

(2) The party who supplies a copy under rule 911, or, if he sues or appears by a solicitor, his solicitor, shall be answerable for the copy being a true copy of the original or of a copy, as the case may be.

Division 68 — Electronic filing service

Definitions

913. In this Division, unless the context otherwise requires —

"authorised user" means a person who is designated as an authorised user under rule 918;

"deemed" means deemed until the contrary is proved;

"EFS provider" means an electronic filing service provider appointed under rule 915;

"electronic filing service" means the electronic filing service established under rule 914;

"electronic transmission" means electronic transmission by an authorised user or a registered user through the electronic filing service;

"entity" means a sole proprietorship, an incorporated or unincorporated partnership (including a limited liability partnership and a limited partnership), a law corporation, a company or other body corporate, the Attorney-General's Chambers, a department of the Government or a public authority;

"identification code" means the identification code of an authorised user or a registered user that is to be used in conjunction with the electronic filing service;

"public authority" means a body established or constituted by or under a public Act to perform or discharge a public function;

"registered user" means an entity which is registered under rule 918;

"service bureau" means a service bureau established under rule 917.

Establishment of electronic filing service

914. The Registrar may, with the approval of the Chief Justice, establish an electronic filing service and make provision for specified documents to be filed, served, delivered or otherwise conveyed using that service.

Electronic filing service provider and superintendent

915.—(1) The electronic filing service shall be operated by an EFS provider appointed by the Registrar with the approval of the Chief Justice.

(2) The Singapore Academy of Law shall be the superintendent of any EFS provider appointed under this rule.

Computer system of electronic filing service provider

916. For the purposes of this Division, an EFS provider's computer system means the computer servers and network equipment operated, maintained or used by the EFS provider although such computer servers and network equipment may not be owned by that EFS provider.

Service bureau

917.—(1) The Registrar may establish or appoint agents to establish a service bureau or service bureaux to assist in the filing, service, delivery or conveyance of documents using the electronic filing service.

(2) Any agent appointed by the Registrar pursuant to paragraph (1) shall not be treated as such for the purposes of the acceptance of the payment of fees or service charges.

(3) The Singapore Academy of Law shall be the superintendent of any agent appointed under this rule.

Registered user and authorised user

918.—(1) Any entity may apply to the Registrar to be a registered user in accordance with any procedure set out for such applications in any practice directions.

(2) Any entity which is a registered user may designate one or more of its partners, directors, officers or employees to be an authorised user in accordance with any procedure set out in any practice directions.

(3) The Registrar may allow an entity to be a registered user or a person to be an authorised user on such terms and conditions as the Registrar thinks fit.

(4) A registered user which was registered or an authorised user who was designated before 1 January 2013 shall be deemed to have been registered as a registered user or designated as an authorised user, as the case may be, under this rule.

(5) A registered user which designates an authorised user and supplies the authorised

user's identification code through the electronic filing service shall be deemed to approve the use of the identification code in conjunction with the electronic filing service by that authorised user.

(6) Before using the electronic filing service, the registered user must —

(*a*) enter into an agreement with the EFS provider for the provision of the electronic filing service; and

(*b*) make arrangements with the Registrar for the mode of payment of the applicable fees prescribed in these Rules.

(7) The Registrar may waive the application of paragraph (6), in whole or in part, in relation to such registered users or class of registered users as he deems fit.

(8) For the purposes of these Rules, a service bureau established under rule 917 shall be deemed to be a registered user, and every employee of a service bureau shall be deemed to be an authorised user.

Fee for registered user

919.—(1) Subject to paragraphs (2) and (3), the following fee shall be payable by each registered user, other than a service bureau:

(*a*) where the registered user is an entity comprising a single advocate and solicitor as at the relevant time in a year, $25 per month or part of the month;

(*b*) where the registered user is an entity comprising 2 to 5 advocates and solicitors as at the relevant time in a year, $35 per month or part of the month;

(*c*) where the registered user is an entity comprising 6 to 9 advocates and solicitors as at the relevant time in a year, $70 per month or part of the month;

(*d*) where the registered user is an entity comprising 10 to 19 advocates and solicitors as at the relevant time in a year, $140 per month or part of the month;

(*e*) where the registered user is an entity comprising 20 to 49 advocates and solicitors as at the relevant time in a year, $250 per month or part of the month;

(*f*) where the registered user is an entity comprising 50 to 99 advocates and solicitors as at the relevant time in a year, $500 per month or part of the

month;

(*g*) where the registered user is an entity comprising 100 to 199 advocates and solicitors as at the relevant time in a year, $1,000 per month or part of the month; and

(*h*) where the registered user is an entity comprising 200 or more advocates and solicitors as at the relevant time in a year, $2,000 per month or part of the month.

(2) Paragraph (1) applies in the following contexts with the following modifications:

(*a*) where the registered user is the Attorney-General's Chambers, a reference to an advocate and solicitor shall be read as a reference to a person who is the Attorney-General, the Solicitor-General or a State Counsel or Deputy Public Prosecutor;

(*b*) where the registered user is a department of the Government or a public authority, a reference to an advocate and solicitor shall be read as a reference to a person who —

(i) is employed or engaged by the registered user; and

(ii) has a right to appear before the Court by virtue of any written law;

(*c*) where the registered user is an entity that is registered solely for the purpose of using the electronic filing service to search the information referred to in rule 889, or to search for, inspect or take a copy of any document filed in the Registry, in accordance with rule 891, a reference to an advocate and solicitor shall be read as a reference to an authorised user designated by the registered user.

(3) Where the registered user is an entity that is registered solely for the purpose of using the electronic filing service to make any application under section 25(1) of the Legal Profession Act (Cap. 161) for a practising certificate, no fee shall be payable by the registered user.

(4) In paragraph (1), "relevant time" means —

(*a*) 1 May in any year unless sub-paragraphs (*b*), (*c*) and (*d*) apply;

(*b*) where an entity registers for the first time under rule 918 — the date of first registration;

(*c*) where an entity is deemed to have been registered as a registered user

before 1 January 2013 — 1 January 2013; and

(*d*) where a registered user informs the Registrar after 1 May in any year of any change in the number of its advocates and solicitors — the day on which the Registrar is so informed.

(5) The fee referred to in paragraph (1) shall start to be payable from and in respect of the first month in which the relevant time falls, and shall continue to be payable monthly.

(6) The fee payable by each registered user shall be due and payable on the first day of each month.

(7) The Registrar may waive, refund or defer the payment of the whole or any part of the fee in paragraph (1) in relation to any registered user or class of registered users on such terms and conditions as he deems fit.

(8) Where any fee under this rule has been paid in excess or error by a registered user, the Registrar —

(*a*) must refund the amount paid in excess or error if the registered user makes a claim in writing to the Registrar within 3 months after the date on which the fee was paid in excess or error; and

(*b*) may, in any other case, as he deems fit, refund the whole or any part of the amount paid in excess or error.

(9) For the purposes of this rule, the manner in which the entity must inform the Registrar of the number of advocates and solicitors and all matters connected therewith or incidental thereto may be set out in any practice directions.

Electronic filing

920.—(1) Where a document is required to be filed with, served on, delivered or otherwise conveyed to the Registrar under these Rules, it must be so filed, served, delivered or otherwise conveyed using the electronic filing service in accordance with this Division and any practice directions.

(2) For the purpose of paragraph (1), any requirement for the filing, service, delivery or otherwise conveyance of a document is satisfied by the filing, service, delivery or otherwise conveyance of a single copy using the electronic filing service in accordance with this Division.

(3) Filing, service, delivery or conveyance of a document using the electronic filing service pursuant to paragraph (1) may be done —

(*a*) by electronic transmission; or

(*b*) via a service bureau.

(4) Despite anything in paragraph (1), the Registrar may allow a document, part of a document or any class of documents to be filed, served, delivered or otherwise conveyed other than by using the electronic filing service.

(5) The form of any document must be as set out —

(*a*) in any practice directions; or

(*b*) where the document is remotely composed on the EFS provider's computer system, in the form made available through the electronic filing service.

(6) Any document which is filed with, served on, delivered or otherwise conveyed to the Registrar through the electronic filing service by a registered user using an identification code shall be deemed to have been so filed, served, delivered or otherwise conveyed by the registered user and with his intention to do so.

(7) Any document which is filed with, served on, delivered or otherwise conveyed to the Registrar through the electronic filing service by an authorised user (other than an employee of a service bureau) using an identification code shall be deemed to have been so filed, served, delivered or otherwise conveyed —

(*a*) by the authorised user on behalf and with the authority of the registered user to whom the authorised user belongs; and

(*b*) with the intention of that registered user to do so.

(8) Any document which is filed with, served on, delivered or otherwise conveyed to the Registrar through the electronic filing service by an authorised user, who is an employee of a service bureau, using an identification code shall be deemed to have been so filed, served, delivered or otherwise conveyed —

(*a*) on behalf and with the authority of the person tendering the document to the service bureau for such purpose and with the intention of that person to do so; or

(*b*) where the person tendering the document to the service bureau is acting as agent for his principal, on behalf and with the authority of his principal and with the intention of the principal to do so.

(9) To avoid doubt, it is declared that a document which is filed, served, delivered or otherwise conveyed to the Registrar using an identification code in compliance with the security procedures of the electronic filing service is a secure electronic record within the

meaning of the Electronic Transactions Act (Cap. 88).

Signing of electronic documents

921.—(1) Where a document is filed, served, delivered or otherwise conveyed using the electronic filing service, any requirement under these Rules relating to signing by or the signature of an authorised user or a registered user, shall be deemed to be complied with if the identification code of the authorised user or registered user has been applied to or associated with, directly or indirectly, the document or the transmission containing the document.

(2) For the purposes of paragraph (1) —

(*a*) where the identification code of a registered user is applied to or associated with, directly or indirectly, a document or a transmission containing a document in compliance with the security procedures of the electronic filing service —

(i) the document shall be deemed to be signed by the registered user; and

(ii) the contents of the document shall be deemed to be endorsed by the registered user;

(*b*) where the identification code of an authorised user (other than an employee of a service bureau) is applied to or associated with, directly or indirectly, a document or a transmission containing a document in compliance with the security procedures of the electronic filing service —

(i) the document shall be deemed to be signed by the authorised user on behalf and with the authority of the registered user to whom the authorised user belongs; and

(ii) the contents of the document shall be deemed to be endorsed by that registered user; or

(*c*) where the identification code of an authorised user, who is an employee of a service bureau, is applied to or associated with, directly or indirectly, a document or a transmission containing a document in compliance with the security procedures of the electronic filing service —

(i) the document shall be deemed to be signed by the authorised user on behalf and with the authority of the person tendering the document to the service bureau and the contents of the document

shall be deemed to be endorsed by that person; or

(ii) where the person tendering the document to the service bureau is acting as agent for his principal, the document shall be deemed to be signed on behalf and with the authority of his principal and the contents of the document shall be deemed to be endorsed by his principal.

(3) Where any written law or practice directions requires the signature of an advocate or solicitor, such requirement shall be deemed to be met where the identification code of the advocate or solicitor has been applied to or associated with, directly or indirectly, the document or the transmission containing the document to be signed in compliance with the security procedures of the electronic filing service.

(4) To avoid doubt, it is declared that the application to or association of the identification code of an authorised user or a registered user, directly or indirectly, with a document or a transmission containing a document in compliance with the security procedures of the electronic filing service is a secure electronic signature within the meaning of the Electronic Transactions Act (Cap. 88).

Date of filing

922.—(1) Where a document is filed with, served on, delivered or otherwise conveyed to the Registrar using the electronic filing service and is subsequently accepted by the Registrar, it shall be deemed to be filed, served, delivered or conveyed —

(*a*) where the document is filed, served, delivered or conveyed by electronic transmission from the authorised user's or registered user's computer system, on the date and at the time that the first part of the transmission is received in the EFS provider's computer system;

(*b*) where the document is remotely composed on the EFS provider's computer system, on the date and at the time that the first part of the transmission containing instructions from the authorised user or registered user to so file, serve, deliver or convey the document is received in the EFS provider's computer system; and

(*c*) where the document is filed, served, delivered or conveyed via a service bureau, on the date and at the time that the first part of the transmission is received in the Registrar's computer system.

(2) Paragraph (1) does not apply to a caveat entered pursuant to rule 239.

(3) Where a document to which paragraph (2) applies is filed with, served on, delivered or otherwise conveyed to the Registrar using the electronic filing service and is subsequently accepted by the Registrar, it shall be deemed to be filed, served, delivered or conveyed —

(*a*) where the document is filed, served, delivered or conveyed by electronic transmission, on the date and at the time that the Registrar accepts the document, as reflected in the Registrar's computer system;

(*b*) where the document is filed, served, delivered or conveyed via a service bureau, on the date and at the time that the Registrar accepts the document, as reflected in the Registrar's computer system.

(4) Where an originating process is filed or otherwise conveyed using the electronic filing service and it is subsequently accepted by the Registrar, it shall be deemed to be issued —

(*a*) where the document is filed or conveyed by electronic transmission, on the date and at the time that the first part of the transmission is received in the EFS provider's computer system;

(*b*) where the document is filed or conveyed via a service bureau, on the date and at the time that the first part of the transmission is received in the Registrar's computer system.

(5) The registered user may produce a record of the transmission issued by the EFS provider or the service bureau, as the case may be, together with a copy of the notification of acceptance of the document by the Registrar as evidence of —

(*a*) the filing or issuance of an originating process;

(*b*) the filing, service, delivery or conveyance of any other document; or

(*c*) the date and time either or both of these events took place.

(6) If the Registrar is satisfied for any reason that a document should be treated as having been filed with, served on, delivered or otherwise conveyed to the Registrar, or issued, at some earlier date and time, than the date and time provided for under paragraph (1), (3) or (4) —

(*a*) he may cause the electronic filing service to reflect such earlier date and time; and

(*b*) that earlier date and time shall be deemed for all purposes to be the date and time on and at which the document was filed, served, delivered, conveyed or issued, as the case may be.

When time for service begins to run

923.—(1) Where a document is filed with, served on, delivered or otherwise conveyed to the Registrar by electronic transmission, the time for service of that document shall only begin to run from the time that the Registrar's notification of his acceptance of the document is received in that registered user's computer system.

(2) Where a document is filed with or otherwise conveyed to the Registrar via a service bureau, the time for service of that document shall only begin to run from the time that the Registrar's notification of his acceptance of the document is received by the service bureau.

(3) If the Registrar's notification referred to in paragraphs (1) and (2) is received in the computer system or the service bureau respectively on a day other than a working day, it shall be deemed for the purpose of this rule to have been received on the next working day.

Service of documents

924.—(1) If a document —

(*a*) other than a document which is required by these Rules to be served personally; or

(*b*) being a document which is required by these Rules to be served personally and which the party to be served has agreed may be served using the electronic filing service,

is required under any other provision of these Rules to be served, delivered or otherwise conveyed by a person to any other person and that person is an authorised user or a registered user or is represented by a solicitor who is an authorised user or a registered user (called in this rule the recipient of the document), such service, delivery or conveyance may be effected by using the electronic filing service by electronic transmission or via a service bureau.

(2) For the purposes of paragraph (1)(*b*), a party who has instructed his solicitor to accept service of a document which is required by these Rules to be served personally shall be deemed to have agreed to be served using the electronic filing service.

(3) The document shall be deemed to be served, delivered or otherwise conveyed —

(*a*) where the document is served, delivered or otherwise conveyed by electronic transmission from authorised user's or registered user's computer system on the date and at the time that the first part of the transmission is received in the EFS provider's computer system; and

(*b*) where the document is remotely composed on the EFS provider's computer system, on the date and at the time that the first part of the transmission containing instructions from the authorised user or registered user to so serve, deliver or convey the document is received in the EFS provider's computer system.

(4) The person serving the document may produce a record of the service, delivery or conveyance to the recipient of the document which is issued by the EFS provider or the service bureau as evidence of the service, delivery or conveyance, as well as the date and time of such service, delivery or conveyance.

(5) The person serving the document may file a Registrar's certificate of service issued through the EFS provider or the service bureau in lieu of an affidavit of service.

(6) The Registrar's certificate filed under paragraph (5) shall be regarded as prima facie evidence of such service, delivery or conveyance on the date and at the time as stated.

(7) Where a document has to be served, delivered or conveyed by the person serving the document to more than one person, he may effect such service, delivery or conveyance using the electronic filing service on such of those persons who are registered users or authorised users, and paragraphs (1), (3), (4), (5) and (6) apply with such modifications as are necessary.

(8) Any document which is served, delivered or otherwise conveyed by a registered user to a person through the electronic filing service using an identification code shall be deemed to have been so served, delivered or otherwise conveyed by the registered user and with his intention to do so.

(9) Any document which is served, delivered or otherwise conveyed by an authorised user (other than an employee of a service bureau) to a person through the electronic filing service using an identification code shall be deemed to have been so served, delivered or otherwise conveyed —

(*a*) by the authorised user on behalf and with the authority of the registered user to whom the authorised user belongs; and

(*b*) with the intention of that registered user to do so.

(10) Any document which is served, delivered or otherwise conveyed by an authorised user, who is an employee of a service bureau, shall be deemed to have been so served, delivered or otherwise conveyed —

(*a*) on behalf and with the authority of the person tendering the document to

the service bureau for such purpose and with the intention of that person to do so; or

(*b*) where the person tendering the document to the service bureau is acting as agent for his principal, on behalf and with the authority of his principal and with the intention of the principal to do so.

(11) To avoid doubt, it is declared that any document which is served, delivered or otherwise conveyed to a person using an identification code in compliance with the security procedures of the electronic filing service is a secure electronic record within the meaning of the Electronic Transactions Act (Cap. 88).

(12) Rule 905 applies to service effected under this rule.

Notification or delivery by Registrar

925. Where the Registrar is required by these Rules to notify or to deliver or furnish any document to a person who is a registered user, the Registrar may do so using the electronic filing service.

Mode of amendment of electronic documents

926. Amendments to documents must be effected in the manner provided in any practice directions.

Affidavits in electronic form

927.—(1) Affidavits which are filed in Court using the electronic filing service may be used in all proceedings to the same extent and for the same purposes as paper affidavits filed in Court.

(2) Where an affidavit is to be filed in Court using the electronic filing service, it must comply with the following requirements:

(*a*) the affidavit must be sworn in the usual way in which the deponent signs the original paper affidavit;

(*b*) a true and complete electronic image of the original paper affidavit must be created; and

(*c*) the original paper affidavit must be retained by the party who filed it for a period of 7 years after it is filed.

(3) Despite paragraph (2)(*c*), if the original paper affidavit subsequently becomes unavailable within 7 years after it was filed, the Court may grant leave for the electronic

image of the original paper affidavit filed in Court using the electronic filing service to be used in the proceedings for which it was filed, or in any other proceedings.

Discrepancy

928. Where a document was filed using the electronic filing service, and there is any inconsistency between the information entered into the electronic template of the document or of the transmission containing the document and the information contained in the document —

(*a*) the information contained in the document shall prevail where that document is remotely composed on the EFS provider's computer system; and

(*b*) in a case other than sub-paragraph (*a*), the information entered into the electronic template of the document shall prevail.

Interpretation

929.—(1) A user who has been registered as a registered user or an authorised user by the Registrar of the Supreme Court under Order 63A, Rule 5 of the Rules of Court (Cap. 322, R 5) is to be treated for the purposes of this Division as if he had also been similarly registered by the Registrar of the State Courts under that Order and by the Registrar of the Family Justice Courts under rule 918.

(2) A user who has been registered as a registered user or an authorised user by the Registrar of the State Courts under Order 63A, Rule 5 of the Rules of Court is to be treated for the purposes of this Division as if he had also been similarly registered by the Registrar of the Supreme Court under that Order and the Registrar of the Family Justice Courts under rule 918.

(3) A user who has been registered as a registered user or an authorised user by the Registrar of the Family Justice Courts under rule 918, or under Order 63A, Rule 5 of the Rules of Court, is to be treated for the purposes of this Division as if he had also been similarly registered by the Registrar of the Supreme Court and the Registrar of the State Courts under Order 63A, Rule 5 of the Rules of Court.

(4) A service bureau established or authorised to be established by the Registrar of the Supreme Court or the Registrar of the State Courts under Order 63A, Rule 4 of the Rules of Court may be used to assist in the filing, service, delivery or conveyance of documents pertaining to Family Justice Courts proceedings using the electronic filing service in such cases and circumstances as the Registrar of the Family Justice Courts may specify in practice directions.

(5) A service bureau established or authorised to be established by the Registrar of the Family Justice Courts may be used to assist in the filing, service, delivery or conveyance of documents pertaining to Supreme Court or State Courts proceedings using the electronic filing service in such cases and circumstances as the Registrar of the Supreme Court or the Registrar of the State Courts (as the case may be) may specify in practice directions.

Division 69 — Change of solicitor

Notice of change of solicitor

930.—(1) A party to any cause or matter who sues or defends by a solicitor may change his solicitor without an order for that purpose.

(2) Despite paragraph (1), until notice of the change is filed and served in accordance with this rule, the former solicitor shall, subject to rules 933 and 934, be considered the solicitor of the party until the final conclusion of the cause or matter, whether in the Court or the Court of Appeal.

(3) Notice of a change of solicitor in Form 173 must be filed in the Registry.

(4) The party giving the notice must serve on every other party to the cause or matter (not being a party in default as to entry of appearance) and on the former solicitor a copy of the notice.

(5) The party giving the notice may perform the duties prescribed by this rule in person or by his new solicitor.

Notice of appointment of solicitor

931. Where a party, after having sued or defended in person, appoints a solicitor to act in the cause or matter on his behalf —

(*a*) the change may be made without an order for that purpose; and

(*b*) rule 930(3), (4) and (5) applies, with the necessary modifications, in relation to notice of appointment of a solicitor in Form 173 as it applies in relation to a notice of change of solicitor.

Notice of intention to act in person

932. Where a party, after having sued or defended by a solicitor, intends and is entitled to act in person —

(*a*) the change may be made without an order for that purpose; and

(*b*) rule 930 applies, with the necessary modifications, in relation to a notice of intention to act in person as it applies in relation to a notice of change of solicitor except that the notice of intention to act in person in Form 174 must contain an address for service of the party giving it.

Removal of solicitor from record at instance of another party

933.—(1) Paragraph (2) applies where —

(*a*) a solicitor who has acted for a party in a cause or matter —

(i) has died;

(ii) has become bankrupt;

(iii) cannot be found; or

(iv) has failed to take out a practising certificate, been struck off the roll of solicitors, been suspended from practising, or has for any other reason ceased to practise; and

(*b*) the party has not given notice of change of solicitor or notice of intention to act in person in accordance with rules 930 to 932.

(2) Upon the happening of an event in paragraph (1), any other party to the cause or matter may apply to the Court or, if an appeal to the Family Division of the High Court is pending in the cause or matter, to that Court, for an order declaring that the solicitor has ceased to be the solicitor acting for the first-mentioned party in the cause or matter, and the Court may make an order accordingly.

(3) An application for an order under this rule must —

(*a*) be made by summons in Form 175; and

(*b*) be supported by an affidavit stating the grounds of the application.

(4) The summons must, unless the Court otherwise directs, be served on the party to whose solicitor the application relates.

(5) Where an order in Form 176 is made under this rule, the party who made the application must serve on every other party to the cause or matter (not being a party in default as to entry of appearance) a copy of the order.

(6) An order made under this rule shall not affect the rights of the solicitor and the

party for whom the solicitor acted as between themselves.

Withdrawal of solicitor who has ceased to act for party

934.—(1) Where a solicitor who has acted for a party in a cause or matter has ceased so to act and the party has not given notice of change in accordance with rule 930, or notice of intention to act in person in accordance with rule 932, the solicitor may apply to the Court or the Court of Appeal, as the case may be, for an order declaring that the solicitor has ceased to be the solicitor acting for the party in the cause or matter, and the Court or the Court of Appeal, as the case may be, may make an order accordingly.

(2) Despite paragraph (1), until the solicitor serves on every party to the cause or matter (not being a party in default as to entry of appearance) a copy of the order and files a notice in Form 177 of his having ceased to act as solicitor for the party, he shall, subject to rules 930 to 933, be considered the solicitor of the party until the final conclusion of the cause or matter, whether in the Court or the Court of Appeal.

(3) An application for an order under this rule must —

(*a*) be made by summons in Form 178; and

(*b*) be supported by an affidavit stating the grounds of the application.

(4) The summons must, unless the Court otherwise directs, be served on the party for whom the solicitor acted.

(5) An order in Form 179 made under this rule shall not affect the rights of the solicitor and the party for whom the solicitor acted as between themselves.

(6) Despite anything in paragraphs (1) and (2), where the legal aid certificate of an assisted person within the meaning of the Legal Aid and Advice Act (Cap. 160) is revoked or discharged, the solicitor who acted for the assisted person shall cease to be the solicitor acting in the cause or matter.

(7) If the assisted person, referred to in paragraph (6), whose certificate has been revoked or discharged desires to proceed with the cause or matter without legal aid and appoints the solicitor referred to in that paragraph or another solicitor to act on his behalf, rule 931 will apply as if that party had previously sued or defended in person.

(8) Notice that a solicitor has ceased to act for an assisted person pursuant to paragraph (6) together with the last known address of the assisted person for service must be served in the manner prescribed by the Legal Aid and Advice Act.

Address for service of party whose solicitor is removed, etc.

935.—(1) Paragraph (2) applies where —

(*a*) an order is made under rule 933;

(*b*) an order is made under rule 934, and the applicant for that order has complied with rule 934(1) and (2); or

(*c*) the legal aid certificate of an assisted person within the meaning of the Legal Aid and Advice Act (Cap. 160) is revoked or discharged.

(2) Until the party to whose solicitor or to whom, as the case may be, the order or certificate referred to in paragraph (1) relates either appoints another solicitor and complies with rule 931 or, being entitled to act in person, gives notice of his intention to do so and complies with rule 932, his last known address or, where the party is a body corporate, its registered or principal office shall, for the purpose of the service on him of any document not required to be served personally, be deemed to be his address for service.

Warrant to act

936.—(1) Every solicitor representing any party in any cause or matter must obtain from such party or his duly authorised agent a warrant to act for such party, either generally or in that cause or matter.

(2) The absence of such warrant will, if the solicitor's authority to act is disputed, be prima facie evidence that he has not been authorised to represent such party.

Division 70 — Service of foreign process

Definition

937. In this Division, "process" includes a citation.

Service of foreign legal process pursuant to letter of request

938.—(1) This rule applies in relation to the service of any process required in connection with civil proceedings pending before a court or other tribunal of a foreign country where a letter of request from such a tribunal requesting service on a person in Singapore of any such process sent with the letter is received by the Minister and is sent by him to the Family Division of the High Court with an intimation that it is desirable that effect should be given to the request.

(2) In order that service of the process may be effected in accordance with this rule, the letter of request must be accompanied by a translation of that letter in English, 2

copies of the process to be served and 2 copies of the translation of the process in English.

(3) Subject to paragraph (5) and to any written law which provides for the manner in which documents may be served on a body corporate, service of the process must be effected by leaving a copy of it and of the translation with the person to be served.

(4) Service must be effected by the process server.

(5) Where an application in that behalf is made by the Attorney-General —

(*a*) the Court may make an order for substituted service of the process; and

(*b*) where an order is made under sub-paragraph (*a*), service of the process must be effected by taking such steps as the Court may direct to bring the process to the notice of the person to be served.

(6) After service of the process has been effected or attempts to effect service of it have failed, the process server must file —

(*a*) a copy of the process;

(*b*) an affidavit made by the person who served, or attempted to serve, the process stating when, where and how he did or attempted to do so;

(*c*) a copy of the affidavit referred to in sub-paragraph (*b*); and

(*d*) a statement of the costs incurred in effecting, or attempting to effect, service.

(7) The Registrar must give a certificate in Form 180 —

(*a*) identifying the documents annexed to the certificate, which are the letter of request for service, a copy of the process received with the letter and a copy of the affidavit referred to in paragraph (6);

(*b*) certifying that the method of service of the process and the proof of service are such as are required by the Family Justice Rules regulating the service of process of that Court in Singapore or that service of the process could not be effected for the reason specified in the certificate (as the case may be); and

(*c*) certifying that the cost of effecting, or attempting to effect, service is the amount so specified.

(8) The certificate given under paragraph (7) must be sealed with the seal of the Family Justice Courts for use out of the jurisdiction and must be sent to the Permanent

Secretary to the Minister.

Alternative mode of service of foreign legal process

939.—(1) Subject to rule 940, this rule applies in relation to the service of any process required in connection with civil proceedings pending before a court or other tribunal of a foreign country where rule 938 does not apply or is not invoked.

(2) Service of any such process within Singapore may be effected by a method of service authorised by these Rules for the service of analogous process issued by the Court.

(3) This rule applies notwithstanding that the foreign process is expressed to be or includes a command of the foreign sovereign.

Service of foreign legal process under Civil Procedure Convention

940.—(1) This rule applies in relation to the service of any process required in connection with civil proceedings pending before a court or other tribunal of a foreign country, being a country with which there subsists a Civil Procedure Convention providing for service in Singapore of process of the tribunals of that country, where a letter of request from a consular or other authority of that country requesting service on a person in Singapore of any such process sent with the letter is received by the Registrar.

(2) In order that service of the process may be effected in accordance with this rule the letter of request must be accompanied by a copy of a translation of the process to be served in English.

(3) Subject to any written law which provides for the manner in which documents may be served on bodies corporate and to any special provisions of the relevant Civil Procedure Convention, service of the process must be effected by leaving the original process or a copy of it, as indicated in the letter of request, and a copy of the translation with the person to be served.

(4) Service must be effected by the process server.

(5) After service of the process has been effected or attempts to effect service of it have failed (as the case may be), the process server must file —

(*a*) an affidavit made by the person who served, or attempted to serve, the process stating when, where and how he did or attempted to do so; and

(*b*) a statement of the costs incurred in effecting, or attempting to effect, service.

(6) The Registrar must give a certificate certifying —

(*a*) that the process or a copy of the process, as the case may be, was served on the person, at the time, and in the manner, specified in the certificate or, as the case may be, that service of the process could not be effected for the reason so specified; and

(*b*) that the cost of effecting, or attempting to effect, service is the amount so specified.

(7) The certificate given under paragraph (6) must be sealed with the seal of the Family Justice Courts for use out of jurisdiction and must be sent to the consular or other authority by whom the request for service was made.

Costs of service, etc., to be certified by Registrar

941. A statement of the costs incurred in effecting, or attempting to effect, service under rule 938 or 940 must be submitted to the Registrar who shall certify the amount properly payable in respect of those costs.

Division 71 — Obtaining evidence of foreign courts, etc.

Jurisdiction of Registrar to make order

942.—(1) Subject to paragraph (2), the power of the Family Division of the High Court or a judge of that Court to make, in relation to a matter pending before a court or tribunal in a place outside the jurisdiction, orders for the examination of witnesses and for attendance and for production of documents and to give directions may be exercised by the Registrar.

(2) The Registrar may not make such an order if the matter in question is a criminal matter.

Application for order

943.—(1) Subject to paragraph (3) and rule 944, an application for an order under rule 942 must —

(*a*) be made ex parte by a person duly authorised to make the application on behalf of the court or tribunal in question; and

(*b*) be supported by affidavit.

(2) The affidavit in support must exhibit —

(*a*) the letter of request, certificate or other document evidencing the desire of the court or tribunal to obtain for the purpose of a matter pending before it the evidence of the witness to whom the application relates or the production of any documents; and

(*b*) if that document is not in the English language, a translation of that document in that language.

(3) After an application for an order referred to in paragraph (1) has been made in relation to a matter pending before a court or tribunal, an application for a further order or directions in relation to the same matter must be made by summons.

Application by Attorney-General in certain cases

944. Where a letter of request, certificate or other document requesting that the evidence of a witness within the jurisdiction in relation to a matter pending before a court or tribunal in a foreign country be obtained —

(*a*) is received by the Minister and sent by him to the Registrar with an intimation that effect should be given to the request without requiring an application for that purpose to be made by the agent in Singapore of any party to the matter pending before the court or tribunal; or

(*b*) is received by the Registrar pursuant to a Civil Procedure Convention providing for the taking of the evidence of any person in Singapore for the assistance of a court or tribunal in the foreign country, and no person is named in the document as the person who will make the necessary application on behalf of such party,

the Registrar must send the document to the Attorney-General and the Attorney-General may make an application for an order and take such other steps as may be necessary to give effect to the request.

Person to take and manner of taking examination

945.—(1) Any order made pursuant to this Division for the examination of a witness may order the examination to be taken before —

(*a*) any fit and proper person nominated by the person applying for the order;

(*b*) the Registrar; or

(*c*) such other qualified person as to the Court sees fit.

(2) Subject to any special directions contained in any order made pursuant to this

Division for the examination of any witness, the examination must be taken in the manner provided by rules 619 to 624 and 625(1) and (2), and an order may be made under rule 628 for payment of the fees and expenses due to the examiner, and those rules apply accordingly with any necessary modifications.

Dealing with deposition

946. Unless any order made pursuant to this Division for the examination of any witness otherwise directs, the examiner who takes the examination must send the deposition of that witness to the Registrar and the Registrar must —

(*a*) give a certificate sealed with the seal of the Family Justice Courts for use out of the jurisdiction identifying the following documents annexed to the certificate:

(i) the letter of request, certificate, or other document from the court or tribunal out of the jurisdiction requesting the examination;

(ii) the order of the Court for examination;

(iii) the deposition taken pursuant to the order of the Court; and

(*b*) send the certificate with the documents annexed to the certificate —

(i) to the Permanent Secretary to the Minister for transmission to that court or tribunal; or

(ii) where the letter of request, certificate or other document was sent to the Registrar by some other person in accordance with a Civil Procedure Convention, to that other person for transmission to that court or tribunal.

Division 72 — Referrals on issues of law

Definitions

947. In this Division, unless the context otherwise requires —

"Court" means the Family Division of the High Court;

"foreign country" means a country or territory outside Singapore;

"specified foreign country" means a foreign country that is specified in rule 952.

Order for reference of questions of foreign law to foreign courts on application of parties

948.—(1) Where in any proceedings before the Court there arises any question relating to the law of any specified foreign country or to the application of such law, the Court may, on the application of one or more of the parties, order that proceedings be commenced in a court of competent jurisdiction in that specified foreign country seeking a determination of such question.

(2) An application for an order under paragraph (1) must be made by summons and supported by an affidavit stating the grounds for the application.

(3) The Court may give such directions as it thinks fit for the preparation of a statement of the issue from which the question arises for inclusion with the question of law to be determined by the court in a specified foreign country.

Referral of questions of foreign law on Court's own motion

949. Nothing in this Division shall prevent the Court from ordering, on its own motion, that proceedings be commenced in any court of competent jurisdiction in any foreign country (not being a specified foreign country) seeking a determination of any question relating to the law of that foreign country or to the application of such law.

Order for referral of questions of foreign law

950. An order made by the Court under rule 948 or 949 must —

(*a*) state the question that is to be determined in relation to the law of the foreign country;

(*b*) state the facts or assumptions upon which the question is to be determined;

(*c*) contain a statement to the effect that the court in the foreign country may vary the facts or assumptions and the question to be determined; and

(*d*) state whether and to what extent the parties may depart from the facts or assumptions in the determination of the question by the court of the foreign country.

Determination of issues arising in foreign court proceedings

951.—(1) Proceedings for the determination of any issue relating to Singapore law which is relevant to an issue in any proceedings before a court of competent jurisdiction in a specified foreign country may be commenced by originating summons and supported by affidavit.

(2) The originating summons or supporting affidavit must —

(*a*) state the question that is to be determined in relation to Singapore law;

(*b*) state the facts or assumptions upon which the question is to be determined;

(*c*) contain a statement to the effect that the Court in Singapore may vary the facts or assumptions and the question to be determined; and

(*d*) state whether and to what extent the parties may depart from the facts or assumptions in the determination of the question by the Court in Singapore.

Specified foreign country

952. For the purpose of this Division, New South Wales, Australia, is a specified foreign country.

Division 73 — Miscellaneous

Language of documents

953. Every document which is not in the English language must be accompanied —

(*a*) by a translation of the document certified by a court interpreter; or

(*b*) by a translation verified by the affidavit of a person qualified to translate it,

before the document may be received, filed or used in the Court.

Use of foreign documents without authentication pursuant to Civil Procedure Convention

954. Despite these Rules, a document or a translation of it that has been drawn up or certified, and duly sealed, by a court or other competent authority of a foreign country, being a country with which there subsists a Civil Procedure Convention providing for the dispensation of the authentication of such documents, may be received, filed or used in the Court.

Seal of Court

955. Every document issued by the Registry for which a form marked with the word "seal", must bear the seal of the Court.

Compliance with practice directions

956. Every document must comply with such requirements and contain such information and particulars of parties or other persons as may be laid down by or specified in any practice directions.

Rejection of earlier documents

957.—(1) The Registrar, or any officer charged with the duty of receiving and filing any document, may reject a document if it does not comply with these Rules or with any practice directions.

(2) A document rejected under paragraph (1) is to be treated as having been filed only on the date on which it is subsequently accepted for filing by the Registrar, or any officer charged with the duty of receiving and filing any document, and not before.

Inherent powers of Court

958. To avoid doubt it is hereby declared that nothing in these Rules shall be deemed to limit or affect the inherent powers of the Court to make any order as may be necessary to prevent injustice or to prevent an abuse of the process of the Court.

Further orders or directions

959. Without prejudice to rule 958, the Court may make or give such further orders or directions incidental or consequential to any judgment or order as may be necessary in any case.

Non-payment of prescribed fees

960.—(1) Where any requirement of any written law relating to payment of fees to any party or person in a cause or matter has not been complied with, the Court may —

(*a*) refuse to hear the cause or matter; and

(*b*) make such directions as it deems fit including the dismissal of the cause or matter.

(2) In paragraph (1), "cause or matter" includes appeals from such cause or matter.

Division 74 — Lodgment in Court and money in Registry

Definitions

961. In this Division —

"bank" means a bank approved by the Accountant-General;

"carry over", in relation to a fund in Court, means to transfer the fund or any part of the fund from one account to another in the books of the Accountant-General;

"funds" or "funds in Court" means any money, securities, or other investments standing or to be placed to the account of the Accountant-General, and includes money placed on deposit;

"interest" means the dividends and interest on funds;

"ledger credit" means the title of the cause or matter and the separate account opened or to be opened under an order or otherwise in the books of the Accountant-General to which any funds are credited or to be credited;

"lodge in Court" means pay or transfer into Court, or deposit in Court;

"order" means an order or judgment of a Family Court, the Family Division of the High Court or the Court of Appeal, whether made in Court or in Chambers, as the case may be.

Payment into Court under Trustees Act

962.—(1) Subject to paragraph (2), any trustee wishing to make a payment into Court under section 62 of the Trustees Act (Cap. 337), must apply by summons supported by an affidavit setting out —

(*a*) a short description of the trust and of the instrument creating it or, as the case may be, of the circumstances in which the trust arose;

(*b*) the names of the persons interested in or entitled to the money or securities to be paid into Court with their addresses so far as known to him;

(*c*) his submission to answer all such inquiries relating to the application of such money or securities as the Court may make or direct; and

(*d*) an address where he may be served with any summons or order, or notice of any proceedings, relating to the money or securities paid into Court.

(2) Where the money or securities represents a legacy, or residue or any share of a legacy, to which a minor or a person resident outside Singapore is absolutely entitled, no affidavit need be filed under paragraph (1).

Notice of lodgment

963. Any person who has lodged money or securities in Court must forthwith give notice of the lodgment to every person appearing to be entitled to, or to have an interest

in, the money or securities lodged.

Funds how lodged

964.—(1) Money to be lodged in Court must be lodged by means of a direction to the Accountant-General in Form 181(*a*).

(2) Securities issued by a company or by any body corporate constituted under any written law, being fully paid up and free from liability, may be transferred to the Accountant-General in his official name.

(3) The person lodging under paragraph (2) must execute a transfer of the securities, and send such transfer together with the authority in Form 182 to the registered office of the company or body corporate in whose books the securities are to be transferred.

(4) Such company or body corporate must, after registering such transfer, forward the authority to the Accountant-General with a certificate in Form 182, that the securities have been transferred as therein authorised.

(5) Securities, other than those described in paragraph (2), may be placed in a box or packet and lodged with a direction in Form 181(*a*) with the Accountant-General.

(6) After inspecting the contents in the box or packet in the presence of the person lodging the same, and seeing that such box or packet is properly marked and secured, the Accountant-General shall receive the same and give the person lodging a receipt.

(7) The Accountant-General must, after receiving the money or securities, send to the Registrar a duplicate of the receipt that had been issued to the person lodging the same, to be filed in the Registry.

Crediting lodgment and dividends

965. Any principal money or dividends received by the Accountant-General in respect of securities in Court must be placed in his books —

(*a*) in the case of principal money, to the credit to which the securities whereon such money arose were standing at the time of the receipt of the money; and

(*b*) in the case of dividends, to the credit to which the securities whereon such dividends accrued were standing at the time of closing of the transfer books of such securities previously to the dividends becoming due.

Interest on money lodged in Court

966.—(1) Money lodged in Court to the credit of any account shall be deemed to be

placed on deposit, and must be credited with interest at such rate as is from time to time fixed by the Minister for Finance, not being greater than the highest rate of interest which for the time being can be obtained by the Government on current account from any bank in the State except —

(*a*) when money is paid into Court under Division 8, 16 or 18 of this Part; or

(*b*) when the amount is less than $30,000.

(2) Such money shall be deemed not to be placed on deposit when the amount is reduced below $30,000.

Computation of interest

967.—(1) Interest upon money on deposit must not be computed on a fraction of $1.

(2) Interest upon money on deposit accrues by calendar months, and must not be computed by any less period.

(3) Such interest begins on the first day of the calendar month next succeeding that in which the money is placed on deposit, and ceases from the last day of the calendar month next preceding the day of the withdrawal of the money from deposit.

(4) Interest which has accrued for or during the year ending on 31 December in every year, on money then on deposit must, on or before 15 days thereafter following, be placed by the Accountant-General to the credit to which such money is standing.

(5) When money on deposit is withdrawn from deposit, the interest on the money which has accrued and has not been credited must be placed to the credit to which the money is then standing.

(6) When money on deposit consists of sums which have been placed on deposit at different times, and an order is made dealing with the money, and part of such money has to be withdrawn from deposit for the purpose of executing such order, the part or parts of the money dealt with by such order last placed and remaining on deposit at the time of such withdrawal must, for the purpose of computing interest, be treated as so withdrawn unless the order otherwise directs.

(7) Unless otherwise directed by an order, interest credited on money on deposit must, when or as soon as it amounts to or exceeds $30,000, be placed on deposit and, for the purpose of computing interest upon it, must be treated as having been placed on deposit on the last yearly day on which any such interest became due.

Applications with respect to funds in Court

968.—(1) An application to the Court for any of the following matters may be

disposed of in Chambers:

(*a*) for the payment or transfer to any person of any funds in Court standing to the credit of any cause or matter or for the transfer of any such funds to a separate account or for the payment to any person of any dividend of or interest on any securities or money comprised in such fund;

(*b*) for the investment, or change of investment, of any funds in Court;

(*c*) for payment of the dividends of or interest on any funds in Court representing or comprising money or securities lodged in Court under any written law;

(*d*) for the payment or transfer out of Court of any such funds as are mentioned in sub-paragraph (*c*).

(2) Subject to paragraph (3), such application must be made by summons and, unless the application is made in a pending cause or matter or an application for the same purpose has previously been made by petition or originating summons, must be made by originating summons.

(3) Subject to paragraph (4), where an application under paragraph (1)(*d*) is required to be made by originating summons, the application may be made to the Registrar if the funds to which the application relates do not exceed $5,000 in value.

(4) This rule does not apply to any application for an order under Division 16 of this Part.

Payment out of funds in Court

969.—(1) Money paid into Court shall be paid out on a direction to the Accountant-General in Form 181(*b*).

(2) When an order directs any sums to be ascertained by the certificate of the Registrar, both the order and the certificate in Form 181(*c*) must be sent to the Accountant-General.

(3) When an order directs payments out of a fund in Court of any costs directed to be taxed, the Registrar must state in his certificate the name and address of the person to whom such costs are payable.

Name of payee to be stated in order

970.—(1) An order which directs funds in Court to be paid, transferred, or delivered out must state in full the name of every person to whom such payment, transfer, or delivery is to be made, unless the name is to be stated in a certificate of the Registrar.

(2) In the case of payment to a firm it is sufficient to state the business name of such firm.

(3) When money in Court is by an order directed to be paid to any persons described in the order, or in a certificate of the Registrar, as co-partners, such money may be paid to any one or more of such co-partners, or to the survivor of them.

Payment out on death of payee

971.—(1) When funds in Court are by an order directed to be paid, transferred, or delivered to any person named or described in an order or in a certificate of the Registrar, except to a person therein expressed to be entitled to such funds as trustee, executor, or administrator, or otherwise than in his own right, or for his own use, the funds, or any portion of it for the time being remaining unpaid, untransferred, or undelivered, may, unless the order otherwise directs, on proof of that person's death, whether on or after or, in the case of payment directed to be made to a creditor as such, before the date of such order, be paid, transferred, or delivered to the legal personal representatives of the deceased person, or to the survivor or survivors of them.

(2) If no administration has been taken out to the estate of such deceased person who has died intestate, and whose assets do not exceed the value of $10,000, including the amount of the funds directed to be so paid, transferred or delivered to him, such funds may be paid, transferred, or delivered to the person who, being widower, widow, child, father, mother, brother or sister of the deceased, would be entitled to take administration to his or her estate, upon a declaration by such person in accordance with Form 183.

(3) When funds in Court are by an order directed to be paid, transferred, or delivered to any persons as legal personal representatives, such funds, or any portion of the funds for the time being remaining unpaid, untransferred, or undelivered, may, upon proof of the death of any such representatives, whether on or after the date of such order, be paid, transferred, or delivered to the survivor or survivors of them.

(4) No funds shall under this rule be paid, transferred, or delivered out of Court to the legal personal representatives of any person under any probate or letters of administration purporting to be granted at any time subsequent to the expiration of 2 years —

(*a*) from the date of the order directing such payment, transfer, or delivery; or

(*b*) where such funds consist of interest or dividends, from the date of the last receipt of such interest or dividends or such order.

(5) When any application for an order referred to in paragraphs (1) and (3) is made, notice of the application must be given to the Commissioner of Estate Duty who is

entitled to attend and be heard on the matter.

Transfer or investment of funds in Court

972.—(1) When funds in Court are by an order directed to be transferred or carried over, the party having the carriage of the order must lodge with the Accountant-General a copy of the order, and the Accountant-General must act in accordance with such order.

(2) When funds in Court are by an order directed to be invested, the party having the carriage of the order must lodge with the Accountant-General a copy of the order and the Accountant-General must thereupon invest such funds in the manner directed by the order.

(3) The Court may direct that any money in Court, other than money under Divisions 8, 16 and 18 of this Part, may be invested in any of the securities in which trustees are by law permitted to invest trust money in their hands.

Proof to Accountant-General before payment

973. When any person is entitled under an order or direction to receive any payment from the Accountant-General, and the Accountant-General requires evidence of life, or of the fulfilment of any conditions affecting such payment, such evidence may be furnished by a statutory declaration made —

(*a*) by a solicitor acting on behalf of such person; or

(*b*) by the person entitled to the payment.

Accountant-General to give certificate of funds in Court

974.—(1) The Accountant-General, upon a request signed by or on behalf of a person claiming to be interested in any funds in Court standing to the credit of an account specified in such request, must, unless there is good reason for refusing, issue a certificate of the amount and description of such funds.

(2) The certificate referred to in paragraph (1) must include a reference to the morning of the day of the date of the certificate, and must not include the transactions of that day.

(3) The Accountant-General must notify on such certificate —

(*a*) the dates of any orders restraining the transfer, sale, delivery out, or payment or other dealing with the funds in Court to the credit of the account mentioned in such certificate; and

(*b*) whether such orders affect principal or interest, and any charging orders affecting such funds, of which respectively he has received notice and the names of persons to whom notice is to be given, or in whose favour such restraining or charging orders have been made.

(4) The Accountant-General may re-date any such certificate, provided that no alteration in the amount or description of funds has been made since the certificate was issued.

(5) When a cause or matter has been inserted in the list referred to in rule 975, that fact shall be notified in the certificate relating to the cause or matter.

Publication of list of funds in Court

975. In the month of January in every year, the Accountant-General shall cause to be published in the *Gazette* a list of accounts not dealt with for a period of 4 years or more and must give —

(*a*) the title and number of the cause or matter;

(*b*) the title of the ledger credit in which funds are outstanding; and

(*c*) the balance of the funds in each account.

Unclaimed funds in Court with Accountant-General

976.—(1) The funds in Court or in the bailiff's account appearing from the books and accounts to have been in the custody of the Accountant-General or bailiff for a period of 6 years or more, without any claim having been made and allowed thereto during that period, must be transferred and paid to the Government for the general purposes of the State.

(2) If any claim is made to any part of the funds in Court or in the bailiff's account which are transferred and paid to the Government under paragraph (1), and if such claim is established to the satisfaction of the Court, the Government must pay to the claimant —

(*a*) the amount of the principal so transferred and paid to the Government; or

(*b*) so much of the principal as appears to be due to the claimant.

(3) Nothing in this rule shall authorise the transfer of any funds in Court or in the bailiff's account standing to the separate credit of a minor, or held in a minor's account pending the coming of age of such minor, until such minor comes of age or dies.

Definitions

977. In this Division —

"bank" means a bank approved by the Accountant-General;

"funds" or "funds in Court" means any money, securities, or other investments standing or to be placed to the account of the Accountant-General, and includes money placed on deposit;

"interest" means the dividends and interest on funds;

"order" means an order or judgment of a Family Court, the Family Division of the High Court or Court of Appeal, whether made in Court or in Chambers, as the case may be.

Bailiff to keep account book

978.—(1) The bailiff must keep an account of all sums of money paid to or deposited with him and of all sums of money paid out by him in an account book in Form 184.

(2) All money paid to or deposited with the bailiff must be kept in a bank or with the Accountant-General.

(3) No interest shall be payable in respect of any money paid to or deposited with the bailiff.

How money paid to bailiff

979. Money paid to or deposited with the bailiff under these Rules or a judgment or an order of a Court must be paid to the proper officer in the Registry who must give a receipt for every sum of money received by him.

Payment under judgment or order

980. Where any payment is made under a judgment or an order, the person making the payment must produce a copy of the judgment or order and must give notice to the person entitled to the money.

Money not required for making payments on day of receipt

981.—(1) Any money paid to or deposited with the bailiff that is not required for

making payments on that day must be paid into the bank or to the Accountant-General, as the case may be.

(2) Where the payment to the bank or to the Accountant-General, as the case may be, cannot be made on the day of receipt, it must be made on the morning of the next working day.

Accountant-General to grant imprest

982.—(1) Where the money is kept by the Accountant-General, he must grant an imprest to the bailiff and the imprest must be kept by the bailiff in a bank.

(2) All cheques in respect of the bank account must be signed by the bailiff and another officer appointed by the Registrar of the Family Justice Courts.

Cash book for imprest

983.—(1) The bailiff operating the imprest must maintain a cash book in which must be entered all sums received under the imprest (including reimbursements from the Accountant-General) and all payments made from the imprest.

(2) A supervisory officer —

(*a*) must be made personally responsible for making (at least once a week) surprise checks of the cash book, for comparing all the entries with receipted vouchers and other relevant documents and for ensuring that the balance of cash agrees with the balance shown in the cash book; and

(*b*) must satisfy himself that cash is not drawn from the bank in excess of normal requirements.

(3) A record of all surprise inspections must be made in the cash book.

How payments from imprest to be made

984.—(1) All payments from the imprest must be made by cheque and an acknowledgment must be received or a receipt must be obtained from the person to whom the cheque is paid.

(2) When the balance of the imprest reaches a figure sufficient for 7 days anticipated requirements, the cash book must be balanced and the sums paid from the imprest recovered from the Accountant-General.

(3) The receipts must be attached to a bill showing the total amount of the payments.

(4) Despite paragraph (3), if the receipts are numerous, the receipts and a machine-list

of the amounts only may be attached to the bill.

(5) The bill and attachments must be sent to the Accountant-General at least 7 days before the money is actually required.

Proof before payment out

985. Before any money is paid out to any person, the bailiff must require proof to his satisfaction that the person applying for payment is the person entitled or authorised to receive it.

Where money due to Government under any law

986. Before any money is paid out under any order directing the payment out of any money paid or deposited with the bailiff, the bailiff must satisfy himself that any money due to the Government under any written law of which he has notice has been paid or deducted.

When payment to be made by cheque

987.—(1) All payments by the bailiff of an amount exceeding $50 must be made by cheque payable to the person entitled to receive the payment and marked "payable only within 30 days from date".

(2) If the payment is to be made to —

(*a*) any Government department;

(*b*) any body corporate;

(*c*) an advocate and solicitor; or

(*d*) a moneylender under the Moneylenders Act (Cap. 188),

the cheque must be crossed to the payee's account and marked "not negotiable".

(3) Where a cheque has not been cashed within 30 days after its date, a fresh cheque may be issued to replace it.

Instalments ledger

988.—(1) Whenever a judgment or order has been made in the State Courts for payment of money by instalments, unless the Court orders that the instalments are to be paid otherwise than in Court, the Registrar must cause an account to be opened and in which all sums paid into Court under the judgment or order and all sums paid out of Court to the judgment creditor or on his account must be entered.

(2) The account shall be in Form 185.

PART 19

FAMILY JUSTICE COURTS — FEES

Division 1 — Hearing fees

Hearing fees in Courts

989.—(1) The fees payable in any cause or matter for any of the following hearings is as specified in the Fourth Schedule:

(*a*) before a judge of the Family Division of the High Court in Court and in applications (interlocutory or otherwise) fixed for hearing in Chambers or in Court on special hearing dates;

(*b*) before a judge of the Family Court in Court, including applications (interlocutory or otherwise) fixed for hearing in Court on special hearing dates;

(*c*) before the Registrar for the assessment of damages, the taking of accounts and the making of inquiries;

(*d*) before the Registrar for the examination of witnesses.

(2) Where paragraph (1)(*a*) or (*b*) applies, the plaintiff, the appellant or the applicant, as the case may be, must pay the fees and file the Request[4], in Form 186, at the time he sets the cause or matter down for hearing, files the record of appeal, files his request for special or further hearing dates, or at the time the Registry so requires, as the case may be.

(3) Where paragraph (1)(*c*) applies, the party entitled to the benefit of the judgment, the party who has obtained an order for the taking of accounts or making of inquiries, as the case may be, must pay the fees and file the Request[4], in Form 186, at the time of filing the notice of appointment for the assessment of damages, the notice of appointment for the taking of accounts or the making of inquiries, or at the time the Registry so requires, as the case may be.

(4) Where paragraph (1)(*d*) applies, the plaintiff or the applicant, as the case may be, must pay the fees and file the Request[4], in Form 186, at the time of extraction of the order for examination of witnesses or at the time the Registry so requires, as the case

may be.

(5) The Registrar may, in any case, waive or defer the payment of the whole or any part of the fees on such terms and conditions as he deems fit.

(6) The Registrar —

(*a*) must refund the whole of the fees paid if he is notified in writing not later than 14 days before the first date fixed for hearing that the cause or matter has been settled or discontinued; and

(*b*) may, in any other case, as he deems fit, refund the whole or any part of the fees paid.

(7) Any party requesting a refund of the whole or any part of the fees, pursuant to paragraph (6)(*b*), must make a written request to the Registrar within one month from the date of settlement or discontinuance, or from the last hearing date, whichever is the later.

(8) Rule 15 does not apply to paragraph (7).

Value of claim

990. For the purpose of determining the appropriate hearing fees payable under rule 989, the value of the claim shall be the same as that prescribed in rule 994.

No hearing fee for some proceedings

991. This Division does not apply to any cause or matter, or any appeal from a cause or matter, under any of the following Acts:

(*a*) Adoption of Children Act (Cap. 4);

(*b*) Guardianship of Infants Act (Cap. 122);

(*c*) Inheritance (Family Provision) Act (Cap. 138);

(*d*) Maintenance of Parents Act (Cap. 167B);

(*e*) Mental Capacity Act (Cap. 177A);

(*f*) Mental Health (Care and Treatment) Act (Cap. 178A);

(*g*) Status of Children (Assisted Reproduction Technology) Act 2013 (Act 16 of 2013);

(*h*) Women's Charter (Cap. 353).

Powers of Registrar and Court concerning hearing fees

992.—(1) The Registrar may, at any stage of any proceedings or after the conclusion of any such proceedings, including appeals and other matters before the Court of Appeal, direct that the hearing fees be paid by any party or be apportioned among all or any of the parties.

(2) The Registrar may —

(*a*) make such order as he deems fit to secure compliance with any provision of this Division or any direction made under paragraph (1), including giving judgment on or dismissing any claim or counterclaim; and

(*b*) refer any question pertaining to hearing fees in an appeal or matter pending before the Court of Appeal to that Court.

(3) The Court or the Court of Appeal, as the case may be, may exercise the powers of the Registrar in paragraphs (1) and (2).

Review of Registrar's decision

993.—(1) Any party who is dissatisfied with any decision of the Registrar made under this Division may apply to a judge of the Family Division of the High Court or a judge of a Family Court, as the case may be, for a review of that decision.

(2) An application under this rule must be made by summons supported by an affidavit, within 14 days after that decision.

Division 2 — Court fees

Court fees

994.—(1) The fees and percentages in the Fifth Schedule shall be taken and paid in all causes and matters in the Family Justice Courts.

(2) Despite paragraph (1), nothing in these Rules shall affect any fees fixed by any written law which have not been expressly or impliedly repealed by these Rules.

(3) Subject to paragraph (7), for the purpose of determining the appropriate court fees, in the Fifth Schedule, payable in the Family Division of the High Court, the following will apply:

(*a*) if the claim is for a liquidated demand, the value of the claim is as specified in the originating process;

(*b*) if the claim is for unliquidated damages, the value of the claim is as estimated by the party filing the originating process;

(*c*) if the claim relates to proceedings under the Probate and Administration Act (Cap. 251), the value of the claim is the value of the estate;

(*d*) if the claim does not include any claim mentioned above, the claim shall be deemed to have a value of up to $1 million; and

(*e*) in the case of a bill of costs, the value of the claim is the total amount claimed in the bill of costs.

(4) Subject to paragraph (7), for the purpose of determining the appropriate court fees, in the Fifth Schedule, payable in a Family Court where a claim relates to proceedings under the Probate and Administration Act, the value of the claim is the value of the estate.

(5) If the claim is for both liquidated demand and unliquidated damages, the value of the claim is the aggregate value of both claims.

(6) Where the claim includes or consists of a claim in foreign currency, the value of the claim shall be computed after converting the claim to Singapore dollars at an exchange rate applicable as at the date of the filing of the originating process.

(7) The Registrar may, after determining the value of the claim as awarded by the Court, require the parties to pay the difference in the Court fees or refund to the parties the excess Court fees paid.

(8) For the purpose of this rule, the value of the claim shall exclude non-contractual interest.

Manner of payment of fees

995. The fees and percentages to be taken and paid under this Division must be collected in such manner as may from time to time be directed by the Chief Justice or by the Presiding Judge of the Family Justice Courts, with the concurrence of the Chief Justice.

Refund of fees paid for unused documents

996.—(1) The Registrar may, if he thinks fit, refund any fee or part of the fee which has been paid for any unused document.

(2) Every application under this rule for the refund of any fee must be made —

(*a*) by Request[4] signed by the applicant or his solicitor; and

(*b*) within 3 months after the date of the payment of the fee to be refunded.

(3) Where a refund of the fees paid for more than one unused document is being sought, a separate application must be made for the refund of the fee paid for each such unused document.

(4) Where an application under this rule for the refund of any fee is not approved, the fee paid for the Request[4] shall not be refundable.

Waiver of fees under Civil Procedure Convention

997. The Registrar may, in any case, waive the payment of the whole or any part of the fees, costs, expenses and percentages to be taken and paid under these Rules if the waiver of such fees, costs, expenses and percentages is provided for by any Civil Procedure Convention.

Waiver or deferment of court fees

998. The Registrar may in any case waive or defer the payment of the whole or any part of the fees on such terms and conditions as he considers fit.

Exemption where cause or matter relates to criminal proceedings

999.—(1) Where the Registrar is satisfied that any cause or matter relates to or is predicated upon criminal proceedings affecting the life or liberty of a party, the Registrar may, on the application of that party, issue a certificate of exemption from any fee payable or security for costs required or authorised to be furnished under these Rules.

(2) An application for a certificate under paragraph (1) must be made by way of a letter addressed to the Registrar stating the grounds on which the application is made together with all necessary supporting documents.

(3) Despite any other provision in these Rules —

(*a*) no fee shall be payable; and

(*b*) no security for costs shall be required to be furnished,

by any party in the cause or matter, including any appeal from the cause or matter, from the time that a certificate is issued under paragraph (1).

(4) The Registrar may, if he thinks fit, refund any fee or part of the fee which has been paid in respect of a cause or matter for which a certificate under paragraph (1) is issued where such fee was paid before the certificate was issued.

(5) Nothing in this rule shall prevent an order for costs from being made by the Court in favour of or against any party in the cause or matter, including any appeal from that

cause or matter.

FIRST SCHEDULE

Rule 3(1)

CIVIL PROCEDURE CONVENTIONS

Civil Procedure Convention	*Gazette No*.
1. Convention between the United Kingdom and Austria regarding legal proceedings in civil and commercial matters	T 2/1999
2. Convention between the United Kingdom and Italy regarding legal proceedings in civil and commercial matters	T 3/1999
3. Convention between the United Kingdom and Germany regarding legal proceedings in civil and commercial matters	T 4/1999
4. Treaty on Judicial Assistance in civil and commercial matters between the Republic of Singapore and the People's Republic of China	T 2/2001

SECOND SCHEDULE

Rule 8

ENDNOTES

1 Formerly known as "writ of *subpoena duces tecum*"

2 Formerly known as "*Pendente Lite*"

3 Formerly known as "guardian *ad litem*" or "next friend"

4 Formerly known as "praecipe"

5 Formerly known as "writ of *subpoena ad testificandum*"

6 Formerly known as "jurat"

7 Formerly known as “mandamus”

8 Formerly known as “order absolute”

9 Formerly known as “prohibition”

10 Formerly known as “*certiorari*”

11 Formerly known as “writ of *habeas corpus*” or “writ of *habeas corpus ad subjiciendum*”, as the case may be

12 Formerly known as “guardian *ad litem*”

13 Formerly known as “*spes successionis*”

14 Formerly known as “Anton Piller order”

15 Formerly known as “*instanter subpoena*”

THIRD SCHEDULE

COSTS

PART 1

COSTS ON TAXATION

Rule 882(1)

Amount of costs

1.—(1) The amount of costs to be allowed shall (subject to any order of the Court) be at the discretion of the Registrar.

(2) In exercising his discretion, the Registrar must have regard to the principle of proportionality and all the relevant circumstances and, in particular, to the following matters:

(*a*) the complexity of the item or of the cause or matter in which it arises and the difficulty or novelty of the questions involved;

(*b*) the skill, specialised knowledge and responsibility required of, and the time and labour expended by, the solicitor;

(*c*) the number and importance of the documents (however brief) prepared or perused;

(*d*) the place and circumstances in which the business involved is transacted;

(*e*) the urgency and importance of the cause or matter to the client;

(*f*) where money or property is involved, its amount or value.

2.—(1) The bill of costs must set out sufficient information that will enable the Registrar to have regard to the matters referred to in paragraph 1(2) and must comply with such requirements and contain such information as may be laid down or specified in any practice directions.

(2) Where attendances, telephone conversations and correspondence are concerned, it will be sufficient to state only the number of such attendances, telephone calls and correspondence, and, where possible, the total number of hours of such attendances and telephone calls.

(3) Where costs have already been awarded for any of the events set out, this fact and the amount awarded must be indicated.

(4) The bill must also contain a succinct narrative of the legal and factual issues involved.

(5) The bill may also contain the lists of authorities cited, indicating, where possible, those cited in the judgment of the Court.

(6) Work done in the cause or matter includes work done in connection with the negotiation of a settlement.

PART 2

FIXED COST

Rule 882(2)

Division 1 — Costs on judgment without trial

1.—(1) The scale of costs set out in Division 2 of this Part will apply in relation to the following cases:

(*a*) cases in which the defendant pays the amount claimed within the time and in the manner required by the endorsement of the writ;

(*b*) cases in which the plaintiff obtains final judgment in default of appearance or of defence under —

(i) rule 328;

(ii) rule 330 or 331;

(iii) rule 410; or

(iv) rule 412 or 413;

(*c*) cases in which —

(i) the plaintiff obtains final judgment under Division 8 of Part 18 unconditionally;

(ii) the Court dismisses an application under rule 335; or

(iii) the Court gives the defendant against whom an application under rule 335 is made unconditional leave to defend.

(2) Where the plaintiff is also entitled under the judgment to damages to be assessed, this Division will not apply.

(3) In respect of the cases set out in sub-paragraph (1)(*a*) and (*b*), where the plaintiff is entitled under the judgment to costs on an indemnity basis, the scale of costs and disbursements set out in both Divisions 2 and 3 of this Part will apply.

Division 2 — Basic costs

Costs to be allowed (excluding disbursements) in cases under the following sub-paragraphs of paragraph 1(1) of Division 1:

		High Court (Family Division)	*Family Court*
(*a*)	under sub-paragraph (*a*)	$2,000	$1,500
(*b*)	under sub-paragraph (*b*)	$2,300	$1,800
(*c*)	under sub-paragraph (*c*)	$4,000 to $15,000	$3,000 to $10,000

COSTS FOR ADDITIONAL ITEMS

		Costs to be allowed	
		High Court (Family Division)	*Family Court*
2.—(1) Where there is more than one defendant, in respect of each additional defendant served —			
(*a*)	if the additional defendant is represented by the same solicitor as any other defendant	$100	$100
(*b*)	in any other case	$200	$200

(2) Where substituted service is ordered and effected, in respect of each defendant served	$350 plus disbursement	$350 plus disbursement
(3) Where service out of jurisdiction is ordered and effected	$700 plus disbursement	$700 plus disbursement

The disbursements allowed under sub-paragraphs (2) and (3) shall be limited to disbursements reasonably incurred in connection with the substituted service and service out of jurisdiction, and are the following:

		Disbursement to be allowed	
		High Court (Family Division)	*Family Court*
(*a*)	Court fees	Actual fees	Actual fees
(*b*)	Affirmation fees for affidavit in support of application	Actual fees	Actual fees
(*c*)	For each attempted service	$20	$20
(*d*)	For the substituted service, if effected within Singapore —		
	(i) by posting on the door	$20	$20
	(ii) by advertisement	Actual cost	Actual cost
(*e*)	For service out of jurisdiction	Actual cost	Actual cost
(*f*)	Title searches	Actual cost	Actual cost
(4) In the case of a judgment in default of defence or judgment under Division 8 of Part 18, where notice of appearance is not given on the day on which appearance is entered, and the plaintiff makes an affidavit of service for the purpose of a judgment in default of appearance (the allowance to include the search fee)		$200	$200
(5) In the case of a judgment under Division 8 of Part 18 where an affidavit of service of the summons is required		$200	$200

(6) Where bankruptcy or winding up searches are required by the Court	Actual cost	Actual cost
(7) Where the law firm is a GST-registered firm	Actual GST payable	Actual GST payable
(8) Any other item approved by the Registrar	Actual amount allowed	Actual amount allowed

Division 3 — Additional items where costs are on indemnity basis

Disbursements to be allowed in addition to the items claimed under Division 2 in cases under paragraph 1(3) of Division 1:

	Disbursement to be allowed	
	High Court (Family Division)	*Family Court*
(1) Court fees	Actual fees	Actual fees
(2) Affirmation fees for supporting affidavit	Actual fees	Actual fees
(3) Personal service of the writ of summons in Singapore (if applicable)	$20	$20
(4) For each attempted service, where there is no order for substituted service (if applicable)	$20	$20
(5) Postage, photocopying, miscellaneous charges and incidentals	$50	$50

Division 4 — Miscellaneous

3. Where a plaintiff or defendant signs judgment for costs under rule 861 there shall be allowed the following costs, in addition to disbursements:

	Costs to be allowed	
	High Court (Family Division)	*Family Court*
Costs of judgment	$300	$300

4. Where upon the application of any person who has obtained a judgment or an order against a debtor for the recovery or payment of money, a garnishee order is made under rule 742 against a garnishee attaching debts due or accruing due from him to the debtor, there shall be allowed the following costs, in addition to disbursements:

		Costs to be allowed	
		High Court (Family Division)	*Family Court*
(*a*)	To the garnishee, to be deducted by him from any debt owing by him as aforesaid before payments to the applicant —		
	(i) if no affidavit used	$150	$150
	(ii) if affidavit used	$300	$300
(*b*)	To the applicant, to be retained, unless the Court otherwise orders, out of the money recovered by him under the garnishee order and in priority to the amount of the debt owing to him under the judgment or order	$750	$750
(*c*)	Where the garnishee fails to attend the hearing of the application and an affidavit of service is required	$200	$200

5. Where leave is given under rule 692 to enforce a judgment or an order for the recovery of possession of land by writ of possession, if costs are allowed on the judgment or order there shall be allowed the following costs, in addition to disbursements, which shall be added to the judgment or order:

		Costs to be allowed	
		High Court (Family Division)	*Family Court*
(*a*)	Costs	$800	$800
(*b*)	Where notice of proceedings has been given to more than one person, in respect of each additional person	$100	$100

6. Where a writ of execution within the meaning of rule 704 is issued against any party, there shall be allowed the following costs, in addition to disbursements:

	Costs to be allowed	
	High Court (Family Division)	*Family Court*
Costs of issuing execution	$750	$750

FOURTH SCHEDULE

Rule 989

HEARING FEES

(A) Hearing before judge of the High Court (Family Division)

		High Court (Family Division) *Value not exceeding $1 million*	*High Court (Family Division)* *Value exceeding $1 million*	*Document to be stamped*
1.	For the whole or part of the fourth day	$6,000	$9,000	Request[4]
2.	For the whole or part of the fifth day	$2,000	$3,000	Request[4]
3.	For each day or part of each day of the sixth to tenth days	$3,000	$5,000	Request[4]
4.	For each day or part of each day subsequent to the above	$5,000	$7,000	Request[4]

(B) Court hearing before judge of Family Court

			Document to be stamped
1.	For each day or part of each day after the first day	$500	Request[4]

(C) Hearing before Registrar for assessment of damages, taking of accounts and making of inquiries

			Document to be stamped
1.	For the whole or part of the fourth day (including the number of days taken for the determination of liability before a judge of the High Court (Family Division))	$1,000	Request[4]
2.	For each day or part of each day subsequent to the above	$1,000	Request[4]

(D) Hearing before Registrar for examination of witnesses

		High Court (Family Division) Value not exceeding $1 million	*High Court (Family Division) Value exceeding $1 million*	*Family Court*	*Document to be stamped*
1.	On every appointment for the examination of a witness	$100	$200	$50	Request[4]
2.	On every witness sworn or examined, for each hour or part thereof	$250	$500	$50	Request[4]

FIFTH SCHEDULE

Rules 714(3) and 994

COURT FEES

PART 1

PROCEEDINGS IN FAMILY JUSTICE COURTS (EXCEPT WHERE A FEE IS PROVIDED FOR IN PARTS 2, 3, 4 AND 6) OTHER THAN PROCEEDINGS UNDER CHILDREN AND YOUNG PERSONS ACT (CAP. 38)

No.	*Item*	*High Court (Family Division) Value not exceeding $1 million*	*High Court (Family Division) Value exceeding $1 million*	*Family Court*	*Document to be stamped and remarks*

	Commencement of a cause or matter, appearance and pleadings				
1.	All originating processes and pleadings containing a claim or cause of action where no other fee is specifically provided, including a defence with a counterclaim or set-off	$500	$1,000	$150	The filed copy
2.	On sealing an originating summons or a summons where there is a pending legal action under section 120 or 124 of the Legal Profession Act (Cap. 161)	$300	$500	$150	The filed copy
3.	On sealing a renewed writ of summons or originating summons	$250	$500	$50	The filed copy
4.	On sealing an amended writ of summons, an amended memorandum of appearance, an amended originating summons, or on amending any pleading	$100	$200	$20	The filed copy
5.	On entering an appearance for each party	$100	$200	$20	The filed copy
6.	On filing a statement of claim, defence, reply or other pleading subsequent, where no fee is specifically provided	$200	$500	$20	The filed copy or pleading
	Interlocutory applications				
7.	On sealing a summons seeking — (*a*) relief under Division 8 of Part 18, or rule 405 or 560 (*b*) relief in the form of an injunction (*c*) a search order[14] (*d*) an order for discovery	$500	$1,000	$100	The filed copy
8.	On sealing a summons for a transfer of proceedings under section 29(1) or (2) of the Family Justice Act 2014 (Act 27 of 2014)	$200	$200	$200	The filed copy
9.	On sealing other summons	$100	$200	$20	The filed copy
10.	On sealing a notice under rule 367, 374 or 375	$500	$1,000	$150	The filed copy
11.	On filing a request for the service of process or notice of it out of jurisdiction	$100	$200	$50	Request[4]
12.	On sealing a commission or letter of request for the examination of witnesses abroad	$100	$200	$50	Request[4]
	Entering or setting down for trial or hearing in Court				
13.	On setting down a cause or matter for hearing or judgment or on a point of law	$500	$1,000	$200	Notice for setting down action for trial or Request[4]
14.	On late filing of an opening statement or amended opening statement in a High Court action begun by writ	$300	$300	-	Opening statement or amended opening statement
15.	On filing an opening statement or amended opening statement in a High Court action begun by writ, for every page or part of a page in excess of 20 pages	$10	$10	-	Opening statement or amended opening statement
	Writs and writs of execution, etc.				

16.	On sealing every —				The filed copy
	(*a*) order of committal, arrest or attachment of property or warrant for committal	$500	$1,000	$150	
	(*b*) writ of execution or order of court for all other cases	$500	$1,000	$270	
17.	On sealing a subpoena to testify[5] and/or to produce documents[1], other than an urgent subpoena[15], for each witness	$50	$100	$10	Subpoena
18.	On sealing an urgent subpoena[15] to testify and/or to produce documents, for each witness *Note:*— An urgent subpoena[15] is a subpoena that is issued less than 3 days before the trial of an action	$100	$200	$20	Subpoena
	Judgments and orders				
19.	On entering or sealing any judgment or order of Court	$100	$200	$50	Judgment or Order
20.	On sealing or issuing any document, not being a judgment or order, where no other fee is prescribed by this Schedule	$50	$100	$20	The document sealed or issued
21.	On filing a request to enter default judgment	$150	$250	$60	Request[4]
	Matters before Registrar				
22.	On settling a lodgment schedule for payment into Court of purchase or other money, or on approving a guarantee or an undertaking in lieu of a guarantee	$100	$200	$20	The filed copy
23.	On every reference to a Registrar or an officer of Court, or on fixing the reserve on a sale out of Court	$250	$500	$100	The filed copy
24.	On settling a deed or other instrument, or particulars and conditions of sale, whether together or separately	$500	$1,000	$100	The filed copy
	Bailiff's/Registrar's office				
25.	For each attempt at service on each person of any process or proceedings required to be served by the Court or Registrar or bailiff	$50	$50	$30	Request[4]
26.	For each request for a date to be appointed for the execution of a writ of execution after first appointment	$100	$200	$100	Request[4]
27.	On marking a writ of execution for renewal or filing an amended writ of execution	$100	$200	$50	The filed copy
28.	For releasing property seized by instruction of party issuing the writ of execution, order of attachment, arrest or attachment of property	$50	$100	$20	Request[4]
29.	Commission of 1% to be charged on all sums levied by seizure and sale, subject to a minimum of $100 *Note*:— Where the sale is made by private contract, only half the commission will be				To be deducted by the bailiff or Registrar

	payable				
30.	On the sale of any property, where no fee or commission is specifically provided, commission of 1% to be charged on the sale price, subject to a minimum of $100 *Note*:— Where the sale is made by private contract, only half the commission will be payable				To be deducted by the bailiff or Registrar
31.	Commission of 4% to be charged on all moneys received by the bailiff/Registrar under garnishee summons				To be deducted by the bailiff or Registrar
32.	Commission of 4% to be charged on all moneys received by the bailiff/Registrar under an order for the attachment before judgment of money belonging to the debtor in the hands of a third party				To be deducted by the bailiff or Registrar
33.	One half of the commission chargeable under item 29 to be charged on all moneys received by the bailiff/Registrar in satisfaction of a writ of seizure and sale where an execution is withdrawn, satisfied or stopped				To be deducted by the bailiff or Registrar
34.	One half of the commission chargeable under item 29 to be charged on the estimated value of the amount stated in the writ whichever is the lesser where the execution is withdrawn, satisfied or stopped				To be paid in cash to the bailiff or Registrar by the Execution Creditor
35.	One half of the commission chargeable under item 30 to be charged on the estimated value of the property where the sale is not proceeded with				To be paid in cash to the bailiff or Registrar by the party who requested that the sale be carried out
36.	For each person employed in taking charge of any property under seizure	Actual cost	Actual cost	Actual cost	To be paid in cash to the bailiff or Registrar or direct payment on vouchers certified by the bailiff or Registrar
37.	For removal of goods or animals to a place of safe keeping, when necessary	Actual cost	Actual cost	Actual cost	To be paid in cash to the bailiff or Registrar
38.	Where goods or animals are for warehousing and taking charge of the same, including feeding of animals, 2% on the value of the goods or animals removed or the sum endorsed on the writ of execution, whichever is less, plus actual cost incurred No fees for keeping possession of the goods or animals shall be charged after the goods or animals have been removed	Actual cost plus 2%	Actual cost plus 2%	Actual cost plus 2%	To be paid in cash to the bailiff or Registrar
39.	For advertising and giving publicity to the sale by auction *Note*:— In every case where the execution is withdrawn, satisfied or stopped, the fees shall be paid by the person at whose instance the sale is stopped, and the amount of any costs or charges payable under this Schedule shall be taxed by a Judge, in case the Registrar/bailiff and the party	Actual cost	Actual cost	Actual cost	To be paid in cash to the bailiff or Registrar

	liable to pay such costs and charges differ as to the amount thereof					
40.	For the attendance by the Registrar/bailiff, his substitutes or his bailiffs on any place of execution, or for the arrest of a debtor —					
	(*a*) between 9 a.m. and 5 p.m. from Monday to Friday (excluding public holiday)	$50 per hour or part thereof	$100 per hour or part thereof	$50 per hour or part thereof	To be paid in cash to the bailiff or Registrar	
	(*b*) at any other time	$100 per hour or part thereof	$200 per hour or part thereof	$100 per hour or part thereof	To be paid in cash to the bailiff or Registrar	
	Taxation of Costs					
41.	On filing a bill of costs	$300	$500	$100	Bill of Costs	
42.	On taxing a bill of costs The Registrar may in any case require the bill of costs to be stamped before taxation with the whole or part of the amount of fees which would be payable if the bill was allowed by him at the full amount of the fees	6% of amount allowed at taxation subject to a minimum fee of $100	6% of amount allowed at taxation subject to a minimum fee of $100	6% of amount allowed at taxation subject to a minimum fee of $100	Bill of Costs	
43.	On certificate of the result of the taxation *Note*: — Where a plaintiff is entitled to a lump sum for costs under the Third Schedule, or where, in any proceedings, a lump sum for costs is allowed by the Court in any of the cases mentioned in the Third Schedule, the same fees shall be payable as if a bill of costs had been taxed for the amount of such lump sum, and a certificate had been signed	$50	$100	$20	Certificate or Note of Costs	
44.	On the withdrawal of a bill of costs which has been filed for taxation, such fee (not exceeding the amount which would have been payable under item 42 if the bill had been allowed in full) as shall appear to the Registrar to be fair and reasonable, subject to a minimum fee of:	$200	$200	$100	Bill of Costs	
	Filing affidavit, issuance of certificate or report, etc.					
45.	On filing an affidavit, for every page or part of a page including exhibit annexed to or produced with the affidavit (whether the exhibit is filed or not)	$2 per page subject to a minimum fee of $50 per affidavit	$2 per page subject to a minimum fee of $50 per affidavit	$1 per page subject to a minimum fee of $10 per affidavit	The filed copy	
46.	On issuance of any certificate or report by the Registry or on filing any document for which no fee is specifically provided (except for requests of an administrative nature)	$20	$50	$10	The filed copy	
47.	For the following on any moneys, funds or securities —	$50	$100	$20	The filed copy	
	(*a*) on a certificate of the amount and description of the same, including the request of it					
	(*b*) on a transcript of an account on the same for each opening, including the request of it					
	(*c*) on paying, lodging, transferring or depositing the same in Court					

	(*d*) on paying out of Court any of the same lodged or deposited in Court				
	(*e*) on a request to the Accountant-General in writing for information on the same or any transaction in his office				
48.	Request for payment out of moneys paid into Court under instalment order	-	-	5% of the sum to be paid out	Request[4]
	Urgent handling charge				
49.	For each document where a request is made that the document be processed on an urgent basis, in addition to any other fees chargeable under these Rules or any other written law	16% of filing fees (but excluding the electronic filing charges)	16% of filing fees (but excluding the electronic filing charges)	16% of filing fees (but excluding the electronic filing charges)	The filed copy
	Electronic filing charge				
50.	For documents filed or sent to the Court using the electronic filing service under Division 68 of Part 18 by electronic submission, in addition to any other fees chargeable under these Rules or any other written law —				The filed copy
	(*a*) draft judgments, draft orders or draft certificates and requests of an administrative nature	-	-	-	
	(*b*) bundles of documents, bundles of authorities, lists of authorities and written submissions	$4 per document plus $0.60 per page	$4 per document plus $0.60 per page	$4 per document plus $0.60 per page	
	(*c*) for all other documents filed or sent to the Court	$4 per document plus $0.80 per page	$4 per document plus $0.80 per page	$4 per document plus $0.80 per page	
	Note: — Where the document is remotely composed on the computer system of the electronic filing service provider, it is deemed to comprise 2 pages				
	Manual handling charge				
51.	For documents filed or sent to the Court using the electronic filing service under Division 68 of Part 18 through a service bureau, in addition to any other fees (including electronic filing charges) chargeable under these Rules or any other written law	$8 per document	$8 per document	$8 per document	To be paid to the organisation that establishes the service bureau
52.	On rejection of any document for administrative or clerical errors	$25	$25	$5	The filed copy
53.	On every request for the refund of the fee paid for any unused document	$50	$50	$20	Request[4]
	Electronic service charge				
54.	For the service, delivery or conveyance of documents on or to one or more registered users using the electronic filing service under Division 68 of Part 18, whether by electronic transmission or through the service bureau	$2 per document per party served	$2 per document per party served	$2 per document per party served	The served copy

	Inspection, copies and translations				
55.	On every request for certified true copies of documents from the Court file (including exemplification of a probate or letters of administration and of a will or codicil or of any translation thereof or any document to annex to Grant) Provided that the fee under this item shall not be collected for transcripts certified by a provider of transcription services authorised by the Court	$8 per document plus $5 per page	$8 per document plus $5 per page	$8 per document plus $5 per page	Request[4]
56.	On every Request[4] for plain copies of documents from the Court file	$5 per document plus $0.15 per page	$5 per document plus $0.15 per page	$5 per document plus $0.15 per page	Request[4]
57.	On every application to inspect a Court file	$20	$20	$10	Request[4]
58.	On every application for search of information —				
	(*a*) maintained in paper form per book/register per year	$20	$20	$10	Request[4]
	(*b*) maintained in electronic form and made available online – per search term per module per year	$30 for subscribers; $35 for non-subscribers	$30 for subscribers; $35 for non-subscribers	$20 for subscribers; $25 for non-subscribers	Request[4]
	(*c*) where a search made under paragraph (*b*) produces a nil result, the following shall be chargeable in lieu of the fee in that paragraph	$10 for subscribers; $12 for non-subscribers	$10 for subscribers; $12 for non-subscribers	$10 for subscribers; $12 for non-subscribers	Request[4]
	(*d*) maintained in electronic form and searchable at the Registry – per search term per database per year	$20	$20	$10	Request[4]
	Note:— The Registrar may waive the collection of, or refund, in whole or in part, any fee under this item				
59.	On a certified translation by an interpreter of the Court	$5 per page or part thereof	$5 per page or part thereof	$5 per page or part thereof	Request[4]
60.	On checking, correcting and certifying a translation not made by an interpreter of the Court	$5 per page or part thereof	$5 per page or part thereof	$5 per page or part thereof	Request[4]
	Commissions				
61.	For the attendance of an officer of the Court as a witness for every half day or part thereof that he is necessarily absent from his office, including where the officer attending is required to produce the records or documents in Court or in evidence where the records or documents are left in Court	$200 per half day or part thereof	$200 per half day or part thereof	$100 per half day or part thereof	Request[4]
62.	On taking or re-taking an affidavit or a declaration in lieu of an affidavit, or a declaration or an acknowledgment for each person making the same	$20	$20	$20	Affidavit or Declaration
	And in addition for each exhibit referred to in an affidavit, declaration or acknowledgment and required to be marked	$5	$5	$5	

63.	On each document referred to in a deposition and required to be marked	$5	$5	$5	Deposition
64.	On taking a recognizance or bond, whether one or more than one recognizer or obliger, and whether entered into by all at one time or not	$100	$200	$100	The filed copy

PART 2

PROCEEDINGS UNDER ADOPTION OF CHILDREN ACT (CAP. 4), GUARDIANSHIP OF INFANTS ACT (CAP. 122), INTERNATIONAL CHILD ABDUCTION ACT (CAP. 143C) AND MENTAL CAPACITY ACT (CAP. 177A)

No.	*Item*	*Fees*	*Document to be stamped and remarks*
1.	On sealing any form of commencement of a cause or matter (excluding an originating summons for adoption)	$60	The filed copy
2.	On entering appearance for each person	$10	The filed copy
3.	On sealing any form of interlocutory application including ex parte application for an injunction, a search order[14], an order for discovery or an order for arrest of a debtor	$20	The filed copy
4.	On filing affidavit, for every page or part of the page including exhibit annexed to or produced with the affidavit	$1 per page subject to minimum fee of $10 per affidavit	The filed copy
5.	On setting down a cause or matter for hearing or judgment or on a point of law or for further consideration	$100	Request[4]
6.	On entering or sealing any judgment or order, whether made in Chambers or in Court	$50	Judgment or Order
7.	On filing, sealing or amending any document	$10	The filed document
8.	On filing an originating summons for adoption, including the fees for filing the Adoption Statement and supporting affidavit	$100	The filed copy

PART 3

PROCEEDINGS UNDER INHERITANCE (FAMILY PROVISION) ACT (CAP. 138), LEGITIMACY ACT (CAP. 162) AND VOLUNTARY STERILIZATION ACT (CAP. 347)

No.	*Item*	*High Court (Family Division) Value not exceeding $1 million*	*High Court (Family Division) Value exceeding $1 million*	*Family Court*	*Document to be stamped and remarks*
1.	All originating processes and pleadings containing a claim or cause of action where no	$500	$1,000	$150	The filed copy

	other fee is specifically provided, including a defence with a counterclaim or set-off				
2.	On sealing a renewed writ of summons or originating summons	$250	$500	$50	The filed copy
3.	On sealing an amended writ of summons or amended originating summons	$100	$200	$20	The filed copy
4.	On entering an appearance for each party	$100	$200	$20	The filed copy
5.	On filing an affidavit, for every page or part of the page including exhibit annexed to or produced with the affidavit (whether the exhibit is filed or not)	$2 per page subject to minimum fee of $50 per affidavit	$2 per page subject to minimum fee of $50 per affidavit	$1 per page subject to minimum fee of $10 per affidavit	The filed copy
6.	On sealing a summons seeking relief in the form of an injunction	$500	$1,000	$100	The filed copy
7.	On sealing other summons	$100	$200	$20	The filed copy
8.	On sealing a notice under rule 367, 374 or 375	$500	$1,000	$150	The filed copy
9.	On filing a request for the service of process or notice of it out of the jurisdiction	$100	$200	$50	Request[4]
10.	On sealing a commission or letter of request for the examination of witnesses abroad	$100	$200	$50	Request[4]
11.	On setting down a cause or matter for hearing or judgment or on a point of law or for further consideration	$500	$1,000	$200	Notice for setting down action for trial or Request[4]
12.	On late filing of an opening statement or amended opening statement in a High Court action begun by writ	$300	$300	-	Opening statement or amended opening statement
13.	On filing an opening statement or amended opening statement in a High Court action begun by writ, for every page or part of every page in excess of 20 pages	$10	$10	-	Opening statement or amended opening statement
14.	On entering or sealing any judgment or order	$100	$200	$50	Judgment or Order
15.	On sealing a subpoena to testify[5] and/or to produce documents[1], other than an urgent subpoena[15], for each witness	$50	$100	$10	Subpoena
16.	On sealing an urgent subpoena[15] to testify and/or to produce documents, for each witness *Note:* — An urgent subpoena[15] is a subpoena that is issued less than 3 days before the trial of an action	$100	$200	$20	Subpoena

PART 4

PROCEEDINGS UNDER PROBATE AND ADMINISTRATION ACT (CAP. 251)

No.	*Item*	*High Court (Family Division) Value not exceeding*	*High Court (Family Division) Value exceeding $1 million*	*Family Court Value not exceeding $3 million*	*Family Court Value exceeding $3 million*	*Document to be stamped and remarks*

			$1 million				
1.		On filing an originating summons for Probate or Letters of Administration, or for re-sealing the same, including the fees for taking and filing the supporting affidavit	$1,000	$1,000	$80	$1,000	The filed copy
2.	(*a*)	On extracting Grant of Probate or Letters of Administration and engrossing any documents annexed to it, or for re-sealing the same	$250	$250	$35	$250	Request[4]
	(*b*)	Where there is an additional request for Grant of Probate or Letters of Administration in printed form	$50	$50	$25	$50	Request[4]
3.	(*a*)	On engrossing any Supplementary Schedule of Assets or any document to annex to an extracted Grant of Probate or Letters of Administration	$30	$30	$10	$30	Request[4]
	(*b*)	Where there is an additional request for an engrossed document in printed form	$30	$30	$10	$30	Request[4]
4.		On entry of every caveat including notice to the applicant	$100	$100	$50	$100	The filed copy
5.		On withdrawing a caveat including notice	$50	$50	$20	$50	The filed copy
6.		On settling or sealing a citation	$100	$100	$20	$100	The filed copy or Certificate
7.		On filing affidavit, for every page or part of every page including exhibit annexed to or produced with the affidavit	$2 per page subject to minimum fee of $50 per affidavit	$2 per page subject to minimum fee of $50 per affidavit	$1 per page subject to minimum fee of $10 per affidavit	$2 per page subject to minimum fee of $50 per affidavit	The filed copy
8.		On entering or sealing any judgment or Order of Court	$100	$200	$50	$200	Judgment or Order
9.		On issuance of any certificate or report by the Registry or on filing any document for which no fee is specifically provided (except for requests of an administrative nature)	$20	$50	$10	$50	The filed copy

10.	On taking a recognizance or bond, including an administration bond in an application for Grant of Probate, Letters of Administration or re-sealing, whether one or more than one recognizer or obliger, and whether entered into by all or at one time or not	$100	$200	$100	$200	The filed copy

PART 5

PROCEEDINGS UNDER SECTIONS 49 AND 50 OF CHILDREN AND YOUNG PERSONS ACT (CAP. 38)

No.	*Item*	*Fees*	*Document to be stamped and remarks*
	Proceedings under Children and Young Persons Act		
1.	For an application for a copy of any document that is not a judgment, sentence, order or deposition or any other part of the record of proceedings	$5 for each type of document requested in the application and $0.50 per page of each type of document requested, subject to a total minimum fee of $15 for each type of document requested	

PART 6

PROCEEDINGS UNDER PARTS VII, VIII AND X OF WOMEN'S CHARTER (CAP. 353)

No.	*Item*	*Fees*	*Document to be stamped and remarks*
	Proceedings under Parts VII and VIII of Women's Charter		
1.	For an arrest warrant – for each person named in the warrant	$1	Warrant
2.	For a warrant issued under section 71(1)(*a*) of the Women's Charter (Cap. 353)	$1	Warrant
3.	For a summons to a respondent to appear – for each person named in the summons	$1	Summons
4.	For a summons to give evidence – for each person named in the summons	$1	Summons
5.	For an application for a copy of any document that is not a judgment, sentence, order or deposition or any other part of the record of proceedings	$5 for each type of document requested in the application and $0.50 per page of each type of document requested, subject to a total minimum fee of $15 for each type of document requested	
	Proceedings under Part X of Women's Charter		

6.	On filing Form 3 (Writ) or originating summons	$42	The filed copy
7.	On filing Form 10 (Agreed Parenting Plan), Form 11 (Plaintiff's Proposed Parenting Plan) or Form 24 (Defendant's Proposed Parenting Plan)	$7	The filed copy
8.	On filing Form 12 (Agreed Matrimonial Property Plan), Form 14 (Plaintiff's Proposed Matrimonial Property Plan) or Form 26 (Defendant's Proposed Matrimonial Property Plan), each with Form 13 (Particulars of Housing Arrangement) attached	$7	The filed copy
9.	On filing Form 2 (Notice of section 94 Originating Summons) or Form 9 (Notice of Proceedings (Other Party))	$7	The filed copy
10.	On filing Form 17 (Acknowledgment of Service (Defendant)) or Form 15 (Acknowledgment of Service (Other Party))	$7	The filed copy
11.	On filing Form 18 (Memorandum of Appearance (Defendant)) or Form 16 (Memorandum of Appearance (Other Party))	$7	The filed copy
12.	On filing Form 6 (Statement of Claim (Divorce/Judicial Separation)), Form 7 (Statement of Claim (Recission of Judgment of Judicial Separation)), Form 8 (Statement of Particulars), Form 21 (Defence and/or Counterclaim) or Form 22 (Other Pleading)	$7	The filed copy
13.	On filing an amended pleading or document	$7	The filed copy
14.	On filing interrogatories (each set)	$7	The filed copy
15.	On sealing any form of application	$14	The filed copy
16.	On entering or sealing any judgment or order whether made in Chambers or in Court	$35	Judgment or Order
17.	On filing Form 28 (Request for Setting Down) or Form 29 (Notice for Setting Down)	$63	Request[4] or Notice
18.	On every —		Request[4]
	(*a*) subpoena	$7	
	(*b*) urgent subpoena[15]	$14	
	Note: An urgent subpoena[15] is one issued less than 3 days before the trial		
19.	On filing Form 33 (Certificate of Final Judgment)	$14	Certificate
20.	(*a*) On taking or re-taking an affidavit or a declaration in lieu of an affidavit, or a declaration or an acknowledgment for each person making the same	$14	Affidavit or Declaration
	(*b*) In addition to paragraph (*a*), for each exhibit referred to in an affidavit, a declaration, or an acknowledgment, and required to be marked	$3.50	Affidavit or Declaration
21.	On filing an affidavit, for every page or part of the page including exhibit annexed to or produced with the affidavit (whether the exhibit is filed or not)	$0.70 per page, subject to minimum of $7	The filed copy
22.	On filing any other document for which no fee is specifically provided	$7	The filed copy

PART 7

FEES FOR APPEALS IN ALL PROCEEDINGS

(A) Appeals from judgment, order or decision of the Registrar under Division 58 of Part 18

No.	*Item*	*High Court (Family Division) Value not exceeding $1 million*	*High Court (Family Division) Value exceeding $1 million*	*Document to be stamped and remarks*
1.	On filing a notice of appeal	$500	$1,000	The Notice

(B) Appeals from judgment, order or decision of the Registrar under Division 57 of Part 18

No.	*Item*	*Fees*	*Document to be stamped and remarks*
1.	On filing a notice of appeal	$100	The Notice

(C) Appeals to High Court (Family Division) from Family Court under Division 59 of Part 18

No.	*Item*	*Fees*	*Document to be stamped and remarks*
1.	On filing a notice of appeal to the High Court (Family Division)	$600	The Notice
2.	Any interlocutory application pending appeal	$100	The Application
3.	On filing an Appellant's Case	$600	The Case
4.	On filing a Respondent's Case	$300	The Case
5.	On filing an Amended Appellant's Case or an Amended Respondent's Case	$200	The Amended Case
6.	On filing a document signifying the consent of the parties to the payment out of the security deposit to the appellant when an appeal is deemed withdrawn	$50	The document filed

(D) Appeals to High Court (Family Division) from Family Court under Division 60 of Part 18

No.	*Item*	*Fees*	*Document to be stamped and remarks*
1.	On filing a notice of appeal to the High Court (Family Division)	$150	The Notice

(E) Appeals to High Court (Family Division) from proceedings under section 49 or 50 of the Children and Young Persons Act

No.	*Item*	*Fees*	*Document to be stamped and remarks*
1.	On filing a notice of appeal to the High Court (Family Division)	$50	The Notice

Made on 15 December 2014.

SUNDARESH MENON
Chief Justice.

JUDITH PRAKASH
Judge.

VALERIE THEAN
Presiding Judge of the Family Justice Courts.

CHIA WEE KIAT
Registrar of the Family Justice Courts.

TAN PUAY BOON
Director of Legal Aid.

YAP TEONG LIANG
Advocate and Solicitor.

FOO SIEW FONG
Advocate and Solicitor.

TABLE OF DERIVATIONS

This Table of Derivations is provided for the convenience of users of the Rules. It is not part of the Rules.

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[CWK/151214/FJR(JK); AG/LLRD/SL/104A/2013/1 Vol. 1]

(To be presented to Parliament under section 46(7) of the Family Justice Act 2014).