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FAMILY JUSTICE ACT 2014 (ACT 27 OF 2014)

FAMILY JUSTICE (AMENDMENT NO. 2) RULES 2016

In exercise of the powers conferred on us by section 46 of the Family Justice Act 2014 and all other powers enabling us under any written law, we, the Family Justice Rules Committee, make the following Rules:

Citation and commencement

1.—(1) These Rules are the Family Justice (Amendment No. 2) Rules 2016 and, except for rules 2, 10 and 13(b), come into operation on 1 December 2016.

(2) Rules 2, 10 and 13(b) come into operation on 1 January 2017.

Amendment of rule 20

2. Rule 20(2) of the Family Justice Rules 2014 (G.N. No. S 813/2014) (called in these Rules the principal Rules) is amended by deleting sub-paragraph (b).

Amendment of rule 38

3. Rule 38(1) of the principal Rules is amended —

(a) by inserting, immediately after the definition of “enforcement proceedings”, the following definition:

“ “excluded party” has the same meaning as in section 94A(14);”;

(b) by inserting, immediately after the definition of “marriage”, the following definition:

“ “parenting programme” has the same meaning as in section 94A(14);” and

(c) by inserting, immediately after the definition of “person named”, the following definition:

““prescribed party” has the same meaning as in section 94A(14);”.

New rules 39A and 39B

4. The principal Rules are amended by inserting, immediately after rule 39, the following rules:

“Application under section 94A(4)(a)

39A.—(1) A prescribed party’s application under section 94A(4)(a) to be allowed to file a writ for divorce must be made by originating summons in Form 47.

(2) The applicant must file the originating summons together with a supporting affidavit —

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

(b) stating the applicant’s reasons for not completing a parenting programme; and

(c) exhibiting a copy of each document relied on in support of the application.

(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 and the supporting affidavit must be served on the respondent at least 5 clear days before the date of the case conference or hearing.

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

(6) The Court may allow the applicant to file a writ for divorce on such terms as the Court thinks fit.

Application under section 94A(4)(b)

39B.—(1) A prescribed party’s application under section 94A(4)(b) to be allowed to file a counterclaim in proceedings for divorce must be made by summons in Form 4.

(2) The applicant must file the summons together with a supporting affidavit —

- (a) stating whether the applicant was informed, or was aware, of a parenting programme;
- (b) stating the applicant’s reasons for not completing a parenting programme;
- (c) exhibiting a copy of each document relied on in support of the application; and
- (d) if the application is made more than 2 months after the writ was served on the applicant, stating the applicant’s reasons for not making the application within those 2 months.

(3) The 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 summons and the supporting affidavit must be served on the plaintiff in the proceedings for divorce at least 5 clear days before the date of the case conference or hearing.

(5) The Court may allow the applicant to file a counterclaim on such terms as the Court thinks fit.”.

Amendment of rule 44

5. Rule 44(1) of the principal Rules is amended —

- (a) by deleting the word “and” at the end of sub-paragraph (b);
and
- (b) by deleting the full-stop at the end of sub-paragraph (c) and substituting the word “; and”, and by inserting immediately thereafter the following sub-paragraph:

“(d) where the writ is a writ for divorce, and the plaintiff is a prescribed party, one of the following documents:

- (i) a certificate (issued by a person appointed under section 94A(9)(b) to conduct a parenting programme) stating that the plaintiff has completed a parenting programme;
- (ii) a note (issued by a Director of the Ministry of Social and Family Development) stating that the plaintiff is an excluded party;
- (iii) an order of Court allowing, under section 94A(4), the plaintiff to file the writ.”.

Amendment of rule 48

6. Rule 48(1) of the principal Rules is amended —

(a) by deleting the word “and” at the end of sub-paragraph (a)(iii); and

(b) by inserting the word “and” at the end of sub-paragraph (iv) of sub-paragraph (a), and by inserting immediately thereafter the following sub-paragraph:

“(v) where the writ is a writ for divorce, and the plaintiff is a prescribed party, one of the following documents:

- (A) a certificate (issued by a person appointed under section 94A(9)(b) to conduct a parenting programme) stating that the plaintiff has completed a parenting programme;

- (B) a note (issued by a Director of the Ministry of Social and Family Development) stating that the plaintiff is an excluded party;
- (C) an order of Court allowing, under section 94A(4), the plaintiff to file the writ;”.

Amendment of rule 56

7. Rule 56 of the principal Rules is amended by deleting paragraph (4) and substituting the following paragraph:

“(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, within the time specified in paragraph (1) —

- (a) a defence, together with a counterclaim, in Form 21; and
- (b) where the defendant is a prescribed party and wishes to apply for divorce, one of the following documents:
 - (i) a certificate (issued by a person appointed under section 94A(9)(b) to conduct a parenting programme) stating that the defendant has completed a parenting programme;
 - (ii) a note (issued by a Director of the Ministry of Social and Family Development) stating that the defendant is an excluded party;
 - (iii) an order of Court allowing, under section 94A(4), the defendant to file the counterclaim.”.

Amendment of rule 99A

8. Rule 99A of the principal Rules is amended by deleting paragraph (5) and substituting the following paragraph:

“(5) Where, pursuant to an application for a protection order, the Court makes a protection order at a hearing in the absence of the respondent, the Court must arrange for the order to be served on the respondent —

- (a) by the delivery of the order to the respondent personally;
- (b) by the sending of the order by prepaid registered post to the last known address of the place of residence or business of the respondent; or
- (c) by the affixing of the order to a conspicuous part of the last known address of the place of residence of the respondent.”.

Amendment of rule 131B

9. Rule 131B(1) of the principal Rules is amended by deleting the words “Part VII or VIII” and substituting the words “Part VIII”.

New Part 10A

10. The principal Rules are amended by inserting, immediately after rule 174, the following Part:

“PART 10A

MAINTENANCE ORDERS (RECIPROCAL ENFORCEMENT) ACT

Definitions and application

174A.—(1) In this Part, unless the context otherwise requires —

“Act” means the Maintenance Orders (Reciprocal Enforcement) Act (Cap. 169);

“Register” means the register kept by the Registrar under rule 174C for the purposes of the Act;

“Registrar” means the registrar of the Family Justice Courts, and includes the deputy registrar or any assistant registrar of the Family Justice Courts;

“Singapore maintenance order” means a maintenance order made by a court in Singapore, and includes a provisional order made by a court in Singapore and confirmed under section 4(6) of the Act by a competent court in a reciprocating country.

(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 applies to all proceedings under the Act, whether such proceedings are commenced before, on or after 1 January 2017.

Prescribed officer

174B. For the purposes of the Act and this Part, the prescribed officer is —

- (a) a District Judge, or a Magistrate, who is designated under section 13(1) of the Family Justice Act 2014 (Act 27 of 2014) as a judge of the Family Court; or
- (b) a Registrar.

Register

174C. The Registrar must —

- (a) keep, in such form as the Registrar thinks fit, a register for the purposes of the Act; and
- (b) cause such particulars as the Registrar considers necessary to be entered in the register.

Application for transmission of Singapore maintenance order to reciprocating country

174D. An application under section 3(1) of the Act for a Singapore maintenance order to be sent to a reciprocating country must be made —

- (a) by or on behalf of the payee under the Singapore maintenance order; and

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- (b) in the same manner, and in accordance with the same procedure, as an application for a summons is made and heard under the Criminal Procedure Code (Cap. 68).

Content of and undertaking to pay expenses for application for transmission of Singapore maintenance order

174E.—(1) An application under section 3(1) of the Act for a Singapore maintenance order to be sent to a reciprocating country must —

- (a) if there are arrears under the Singapore maintenance order, contain a statement of the arrears and the manner in which the amount in arrears is calculated;
- (b) specify the date on which the Singapore maintenance order was made;
- (c) contain such particulars as are known to the payee under the Singapore maintenance order of the whereabouts of the payer under the order;
- (d) specify any matters likely to assist in the identification of the payer; and
- (e) be accompanied by a recent photograph of the payer, if such a photograph is available to the payee.

(2) The application mentioned in paragraph (1) must also be accompanied by —

- (a) a copy of the Singapore maintenance order;
- (b) an undertaking by the payee to be responsible personally for such expenses, as may be incurred and where requested by the responsible authority in the reciprocating country, for the service of the Singapore maintenance order on the payer under the order; and

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- (c) any other document for the purpose of enforcement of the Singapore maintenance order in the reciprocating country.

(3) The payee must, on receiving notification from the Registrar of the amount of the expenses in paragraph (2), pay that amount to such person as the Registrar may direct.

Complaint under section 4 of Act

174F. A complaint under section 4(1) of the Act against a person residing in a reciprocating country must be made in the same manner, and in accordance with the same procedure, as an application for a summons is made and heard under the Criminal Procedure Code (Cap. 68).

Undertaking to pay expenses for complaint under section 4 of Act

174G.—(1) A complaint made under section 4(1) of the Act against a person residing in a reciprocating country must be accompanied by —

- (a) an undertaking by the complainant to be responsible personally for such expenses, as may be incurred and where requested by the responsible authority in the reciprocating country, for the service of a provisional order, made by a court in Singapore upon hearing that complaint, on the payer under the order; and
- (b) any other document for the purpose of confirmation of the provisional order in the reciprocating country.

(2) The complainant must, on receiving notification from the Registrar of the amount of the expenses in paragraph (1), pay that amount to such person as the Registrar may direct.

Applications under sections 5 and 9 of Act

174H. The following applications must be made in the same manner, and in accordance with the same procedure, as an application for a summons is made and heard under the Criminal Procedure Code (Cap. 68):

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- (a) an application under section 5 of the Act for the variation or revocation of a Singapore maintenance order;
 - (b) an application under section 9 of the Act for the variation or revocation of a maintenance order registered in a Singapore court.

Undertaking to pay expenses for application under section 5 of Act

174I.—(1) An application under section 5 of the Act to vary a Singapore maintenance order must be accompanied by —

- (a) an undertaking by the applicant to be responsible personally for such expenses, as may be incurred and where requested by a court in the reciprocating country concerned, for the service of a provisional order, made by a court in Singapore upon hearing the application, on the payer under the order; and
- (b) any other document for the purpose of confirmation of the provisional order in the reciprocating country.

(2) The applicant must, on receiving notification from the Registrar of the amount of the expenses in paragraph (1), pay that amount to such person as the Registrar may direct.

Authentication of documents setting out or summarising evidence

174J. A document setting out or summarising any evidence required by section 4(5)(b), 5(4) or 9(5) of the Act to be authenticated must be authenticated by a certificate, signed by the court before which the evidence was given, that —

- (a) the document is the original document setting out or summarising that evidence; or
- (b) the document is a true copy of that original document.

Method of transmission of documents to reciprocating country

174K. Any document required by section 5(4) or 9(5) of the Act to be sent to a court in a reciprocating country must be sent to that court by post.

Consideration for revocation of maintenance orders

174L.—(1) For the purposes of section 5(9) of the Act, the court in Singapore, which made a maintenance order that is to be confirmed by a competent court in a reciprocating country, must serve on the person on whose application the maintenance order was made a notice —

- (a) that sets out the evidence received or taken, as the case may be, for the purpose of proceedings relating to the confirmation of the maintenance order;
- (b) that informs the person that it appears to the court in Singapore that the maintenance order ought not to have been made; and
- (c) that informs the person that if the person wishes to make representations with respect to the evidence set out in the notice, the person must send a written notice to the Registrar of the person's intention to do so, accompanied by any further evidence that the person wishes to adduce.

(2) Where the Registrar receives a written notice under paragraph (1)(c) from the person on whose application the maintenance order was made, the Registrar must —

- (a) fix a date for the hearing of further evidence; and
- (b) send to that person a written notice of the date fixed.

Registration of orders other than provisional orders

174M.—(1) Where a certified copy of a maintenance order (not being a provisional order) is received under section 6(3) of the Act, the order must be registered by means of an entry in the Register.

(2) Where the court makes or confirms an order which is required under section 7(5) or 9(10) of the Act to be registered, the order must be registered by means of an entry in the Register.

(3) Every order registered under paragraph (1) or (2) must specify the section of the Act under which the order is registered.

Transmission of order varying or revoking maintenance order to which section 5 of Act applies

174N.—(1) Where a court in Singapore makes an order (not being a provisional order) varying a maintenance order to which section 5 of the Act applies, the Registrar must send a written notice of the making of the order —

- (a) to the Minister; and
- (b) where the order is made in the circumstances in section 5(3)(a) or (b) of the Act, to the court in the reciprocating country which would, if the order had been a provisional order, have had power to confirm the order.

(2) Where a court in Singapore revokes a maintenance order to which section 5 of the Act applies, the Registrar must send a written notice of the revocation —

- (a) to the Minister; and
- (b) to the court in the reciprocating country which confirmed or has power to confirm that maintenance order, or in which the order is registered for enforcement, as the case may be.

Transmission of order confirming maintenance order under section 7 of Act

174O. Where a court in Singapore confirms an order under section 7(2) of the Act, the Registrar must send a written notice of the confirmation to the court in the reciprocating country which made the order.

Transmission of order varying or revoking registered order under section 9 of Act

174P. Where a court in Singapore makes an order under section 9 of the Act (not being a provisional order) varying or revoking a registered order, the Registrar must send a written notice of the making of the order to the court in the reciprocating country which made the registered order.

Notice to be given to Minister where order is registered

174Q. After an order is registered under section 6(3) or 7(5) of the Act, the Registrar must send a written notice of the registration to the Minister.

Notice to be given to payer where order is registered or cancelled

174R.—(1) After an order is registered under section 6(3), 7(5) or 9(10) of the Act, the Registrar must send a written notice to the payer under the order —

- (a) stating that the order has been registered; and
- (b) stating the person to or through whom the Maintenance Orders (Reciprocal Enforcement) Regulations 2016 (G.N. No. S /2016) require the sums due under the registered order to be paid.

(2) Where the registration of an order is cancelled under section 10(1) of the Act, the Registrar must send a written notice of the cancellation to the payer under the order.

Procedure for taking evidence in Singapore at request of court in reciprocating country

174S.—(1) Subject to paragraph (2), where a request under section 14 of the Act is made by or on behalf of a court in a reciprocating country for the taking in Singapore of the evidence of a person residing in Singapore —

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- (a) the evidence must be taken in the same manner as if that person were a witness in proceedings on a summons;
 - (b) if the evidence is to be taken orally, the evidence must be recorded in writing and read to the person who gave the oral evidence, and that person must sign the written record of the evidence;
 - (c) if the evidence is to be recorded on an audio recording system approved by the Registrar, a transcript of the official record of hearing of that evidence must be prepared; and
 - (d) the court by which the evidence of any person is so taken must certify in writing —
 - (i) if sub-paragraph (b) applies, that the evidence was taken by that court; or
 - (ii) if sub-paragraph (c) applies, the authenticity of the transcript of the official record of hearing.

(2) Where the request under paragraph (1) includes a request that the evidence be taken in a particular manner, the court by which the evidence is taken must, so far as circumstances permit, comply with that request.

(3) Any certification or transcript mentioned in paragraph (1)(d) must be sent to the court in the reciprocating country by or on behalf of which the request was made.

Payment of sums due under registered order

174T. Where the court is informed under regulation 4(3) of the Maintenance Orders (Reciprocal Enforcement) Regulations 2016 (G.N. No. S /2016) of the manner in which the sums due under a registered order are to be paid to the person to whom those sums are due, the court may make such order relating to the payment of those sums to that person, or the manner in which those sums are to be paid, as the court thinks fit.”.

Amendment of rule 210

11. Rule 210 of the principal Rules is amended by deleting paragraph (2) and substituting the following paragraph:

“(2) An engrossment of a will, in the form in which the will is to be proved, must be filed if —

- (a) the will contains alterations that are not admissible to proof; or
- (b) a court orders under section 28(1) of the Wills Act (Cap. 352) that the will be rectified so as to carry out the testator’s intentions.”.

New Part 17A

12. The principal Rules are amended by inserting, immediately after rule 295, the following Part:

“PART 17A
WILLS ACT

Definitions

295A. In this Part, unless the context otherwise requires —

“interested party”, in relation to an application for an order under section 28(1) of the Wills Act (Cap. 352) that a will be rectified so as to carry out the testator’s intentions, means —

- (a) a person —
 - (i) to whom any devise, legacy, estate, interest, gift or appointment is given or made under the will; and
 - (ii) whose devise, legacy, estate, interest, gift or appointment may be prejudiced by the order;
- (b) an executor named in the will; or
- (c) a personal representative of the testator;

“probate proceedings” means any civil proceedings under the Probate and Administration Act (Cap. 251);

“will” has the same meaning as in section 2 of the Wills Act.

Rectification of will

295B.—(1) An application for an order under section 28(1) of the Wills Act (Cap. 352), that a will be rectified so as to carry out the testator’s intentions, must be made —

- (a) if no probate proceedings have been commenced in relation to the will, by originating summons; or
 - (b) if probate proceedings have been commenced in relation to the will, by summons in those proceedings.
- (2) The application must be supported by an affidavit that —
- (a) sets out the grounds of the application;
 - (b) contains evidence of —
 - (i) the testator’s intentions;
 - (ii) where it is alleged that the will fails to carry out the testator’s intentions as a consequence of a clerical error, the nature of the alleged clerical error; and
 - (iii) where it is alleged that the will fails to carry out the testator’s intentions as a consequence of a failure to understand the testator’s instructions, the respects in which the testator’s instructions were allegedly not understood; and
 - (c) contains the written consent of each interested party who consents to the application.
- (3) Unless the Court otherwise directs, the application must be served on every interested party who has not consented to the application.

(4) To avoid doubt, where the applicant requires the permission of a court under section 28(2) of the Wills Act in order to make the application, the application cannot be made before that permission is obtained.

Endorsement of memorandum on probate, etc.

295C.—(1) This rule applies where an application is made for an order under section 28(1) of the Wills Act (Cap. 352) that a will be rectified so as to carry out the testator’s intentions.

(2) Paragraphs (3)(a) and (4)(b) apply only in cases where the Registry has issued —

- (a) a printed grant of probate of the will; or
- (b) a printed grant of letters of administration with the will annexed.

(3) The personal representatives of the testator must —

- (a) produce in Court, at the hearing of the application, the probate or letters of administration under which the testator’s estate is administered; and
- (b) if the Court makes an order under section 28(1) of the Wills Act that the will be rectified — file a Request⁴ for a memorandum of the order to be endorsed on, or permanently annexed to, the probate or letters of administration.

(4) If the Court makes an order under section 28(1) of the Wills Act that the will be rectified, or an order dismissing the application —

- (a) a memorandum of the order must be endorsed on, or permanently annexed to, the probate or letters of administration; and
- (b) the probate or letters of administration must remain in the custody of the Court until sub-paragraph (a) is complied with.

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- (5) The memorandum of the order must set out —
- (a) the title of the proceedings in which the application is made; and
 - (b) the operative part of the order in full.”.

Amendment of rule 821

13. Rule 821 of the principal Rules is amended —

- (a) by inserting, immediately after the words “order made under section 3” in paragraph (o), the words “or 6”;
- (b) by deleting paragraph (s);
- (c) by inserting, immediately after paragraph (x), the following paragraph:
 - “(xa) an order of suspension under section 36A of the Mental Capacity Act;”;and
- (d) by deleting the full-stop at the end of paragraph (zd) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:
 - “(ze) an order under section 28(1) of the Wills Act (Cap. 352) that a will be rectified so as to carry out the testator’s intentions.”.

Amendment of rule 880

14. Rule 880 of the principal Rules is amended by deleting paragraphs (2) and (3) and substituting the following paragraphs:

- “(2) The costs payable by a plaintiff in any proceedings mentioned in paragraph (1)(a) or (b) to the plaintiff’s solicitor (being the costs of those proceedings, costs incidental to the claim in those proceedings, or costs consequent on those proceedings) must be taxed under rule 879 or fixed by the Court.
- (3) No costs are payable to the solicitor of a plaintiff in respect of any proceedings mentioned in paragraph (1)(a) or (b) except such amount of costs as may be —

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- (a) certified in accordance with paragraph (4) on a taxation under rule 879 of the solicitor's bill of costs to the plaintiff; or
- (b) fixed by the Court.”.

Amendment of Fifth Schedule

15. Part 1 of the Fifth Schedule to the principal Rules is amended —

- (a) by deleting items 51 and 60;
- (b) by deleting “\$5” wherever it appears in item 59 and substituting in each case “\$45”; and
- (c) by deleting “\$20” wherever it appears in item 62 and substituting in each case “\$25”.

[G.N. Nos. S 144/2015; S 301/2016]

Made on

2016.

SUNDARESH MENON
Chief Justice.

JUDITH PRAKASH
Judge of Appeal.

VALERIE THEAN
*Presiding Judge of the
Family Justice Courts.*

CHIA WEE KIAT
*Registrar of the
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(To be presented to Parliament under section 46(7) of the Family Justice Act 2014).