

Dispute Resolution

New Rules of Court to Streamline Litigation Process

Introduction

Singapore is internationally recognised for having a justice system that is fair, transparent, and effective. A reputation for being an efficient dispute resolution centre and respect for the rule of law have also enhanced Singapore's attractiveness as an investment destination. To develop its position as a regional dispute resolution hub, Singapore has been making continual efforts to improve the efficiency of its justice system by implementing law reform initiatives. These include the establishment of a new Appellate Division of the High Court ("**Appellate Division**") which came into operation on 2 January 2021 and the Courts (Civil and Criminal Justice) Reform Act, which was passed by Parliament on 14 September 2021.

The most recent development on this front has been the new Rules of Court 2021 (S914/2021) ("**ROC 2021**"). On 1 December 2021, the ROC 2021 was issued under the Supreme Court of Judicature Act (Cap 322) and will take effect from 1 April 2022. The ROC 2021 seeks to enhance Singapore's civil justice system by simplifying rules and modernising the language, streamlining procedural steps and enabling greater judicial control of the entire litigation process.

Subject to certain exceptions, the ROC 2021 will apply to all civil proceedings in the Supreme Court and the State Courts (including appeals arising from such proceedings) commenced on or after 1 April 2022, as well as every appeal to the Court of Appeal or the Appellate Division, and every originating application to the Court of Appeal or Appellate Division, which is filed on or after 1 April 2022 (with the necessary modifications to and in relation to every appeal).

The ROC 2021 introduces changes which seek to improve the litigation experience for litigants and to facilitate a more cost and time efficient journey to dispute resolution. Litigants should thus be aware of these changes and how they may benefit from them. In this Update, we highlight some salient features in the ROC 2021 and how they may positively impact the litigation process.

(a) Court Terminology

The ROC 2021 uses simplified court terminology that is accessible to the public and easy to understand. For example, terms such as "in camera", "plaintiff", "subpoena" and "ex parte" will be amended to "in private", "claimant", "order to attend court" and "without notice" respectively.

(b) Commencement of Proceedings

- **Mode of Commencement:** A writ of summons will be an originating claim. Similarly, an originating summons will be an originating application. A claimant may commence court

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proceedings by an originating claim or an originating application (O 6 r 1). Instead of entering an appearance in respect of an Originating Claim, a defendant must file and serve a notice of intention to contest or not to contest (O 6 r 6).

- **Validity of Originating Process:** The validity of an originating claim and an originating application is three months beginning from its date of issue, except in a special case (O 6 r 3(1)). An exception also applies for an originating claim issued in admiralty proceedings, which is valid in the first instance for 12 months (O 6 r 3(4)).

These modifications seek to push claimants to take reasonable steps to effect service expeditiously and to give the Court greater control over cases which are not progressing because the defendant has not been served.

(c) Single Application Pending Trial

In order to control the number of applications which are filed, the Court will consider all matters necessary to bring the proceedings to a conclusion and – as far as possible – order a single application pending trial. No further application may be taken out at any time without the Court's approval (O 9 r 9).

This seeks to prevent parties from litigating in a step-by-step fashion and, in the process, generating a host of interlocutory applications and appeals, which increases costs for parties and the time taken before a case is ready for trial.

(d) Amendment of Pleadings

In a similar vein, parties can no longer amend pleadings once before the close of pleadings without the permission of the Court. Instead, pleadings may only be amended with the permission of the Court (O 9 r 14(1)), or by written agreement between the parties not less than 14 days before the commencement of the trial (O 9 r 14(5)). The Court will not allow pleadings to be amended within 14 days before trial except in a special case (O 9 r 14(3)), and the ROC 2021 sets out prescribed circumstances in which such amendment will be allowed (O 9 r 14(4)). The Court may draw appropriate inferences if material facts in the pleadings are amended.

This would help to eliminate the prevalent practice of parties seeking to amend pleadings very close to the trial date or even on the first day of trial, which often results in wastage of Court hearing time and possibly even the adjournment of the trial.

(e) Affidavits of Evidence-in-Chief

The Court may order the parties to file and exchange affidavits of evidence-in-chief of all or some witnesses after the pleadings have been filed and served, but before any production of documents and before the Court considers the need for any application (O 2 r 8).

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This is aimed at crystallising the disputed issues, reducing the scope of disclosure, and avoiding the possibility of witnesses adjusting their testimony to match disclosed documents.

(f) Expert Evidence

Parties are to inform the Court during the Registrar Case Conference if they intend to rely on expert evidence. The Court will not approve the use of expert evidence unless it will contribute materially to the determination of any issue in the case and the issue cannot be resolved by an agreed statement of facts or by submissions based on mutually agreed materials (O 12 r 2). Parties will be encouraged to agree on the common set of assumed facts upon which the experts are to give their opinion (O 12 r 4).

(g) Amicable Resolution of Disputes

The Court may order the parties to attempt to resolve a dispute by amicable resolution (O 5 r 3(1)). In appropriate cases, this would facilitate the early resolution of a dispute and avoid unnecessarily protracted proceedings.

If a party does not wish to attempt to resolve the dispute by amicable resolution, the Court may order the party to submit a sealed document setting out the party's reasons for such refusal (O 5 r 3(3)).

Concluding Words

Overall, the ROC 2021 represents a significant step forward to keep Singapore's civil justice system efficient and accessible to all, so that no one will be denied justice because of procedural errors committed in the course of litigation or due to any perceived lack of procedure for dealing with particular issues.

The ROC 2021 also ensures that disputes do not become procedural skirmishes which waste time and costs and often do not bring the parties any closer to the main battlefield. In this regard, Rajah & Tann will prioritise the needs of every client seeking legal assistance, providing a wider breadth of support tailored to their specific needs. Rajah & Tann is committed to delivering smarter, better forms of legal support that are built upon evidence of what works.

Please feel free to contact our team below, who are well-placed to assist on any query you may have.

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