

RULES OF COURT 2021

The Singapore Rules of Court (the “ROC 2021”) were gazetted on 1 December 2021 and will take effect from 1 April 2022. The ROC 2021 will largely apply to all civil proceedings, including appeals, commenced on or after 1 April 2022. The ROC 2021 is an overhaul of the existing Rules of Court.

Under the new regime, the Court must seek to achieve the following Ideals when making orders or giving directions¹:

- (1) fair access to justice;
- (2) expeditious proceedings;
- (3) cost effective work proportionate to –
 - nature and importance of the action;
 - complexity of the claim as well as the difficulty or novelty of the issues and questions that it raises; and
 - the amount or value of the claim;
- (4) efficient use of court resources; and
- (5) fair and practical results suited to the needs of the parties.

¹ O 3 r 1 of ROC 2021

Key Features

Terminology

ROC 2021 uses simplified legal terminology which is easy to understand. Some of the main changes are as follows:

Existing Rules	ROC 2021
Plaintiff	Claimant
Writ of summons	Originating claim
Originating summons	Originating application
Memorandum of appearance	Notice of intention to contest or not contest
Ex-parte	Without notice
Offer to settle	Offer of amicable resolution
Leave of Court	Permission of Court
Pre-trial conference	Case conference
Subpoena	Order to attend Court or produce documents
In camera	In private
Judgment in default of appearance	Judgment for failing to file notice of intention to contest or not contest
Stay of execution	Stay of enforcement
Garnishee order	Enforcement order for attachment of a debt
Writ of execution	Enforcement order
Writ of seizure and sale	Enforcement order for seizure and sale of property
Writ of possession	Enforcement order for possession of property

Amicable Resolution

Prior to the commencement and during any proceedings, the parties have the duty to consider amicable resolution of the dispute.² A party is to make an offer of amicable resolution before commencing the action unless the party has reasonable grounds not to do so.³ An offer of amicable resolution refers to making an offer to settle the action or resolve the dispute other than by litigation, whether in whole or in part.⁴ An offer of amicable resolution must not be rejected unless the party has reasonable grounds to do so.⁵ An offer of amicable resolution and any rejection must be in writing.⁶ The offer must be open for acceptance within a reasonable time, and in any case, for at least 14 days, unless the parties otherwise agree.⁷

² O 5 r 1(1) of ROC 2021

³ O 5 r 1(2) of ROC 2021

⁴ O 5 r 1(3) of ROC 2021

⁵ O 5 r 1(4) of ROC 2021

⁶ O 5 r 2(1) of ROC 2021

⁷ O 5 r 2(2) of ROC 2021

The Court has the power to order parties to attend alternative dispute resolution, for example, mediation, where the Court is not satisfied that parties have properly discharged their duty to consider amicable resolution.⁸

Originating Processes

Under ROC 2021⁹, a writ of summons will be an originating claim while an originating summons will be an originating application. The principles behind whether proceedings should be commenced by originating claim or originating application remain largely the same.

Validity

Except for admiralty proceedings, an originating claim and originating application will only be valid for three months from the date of issue under ROC 2021.¹⁰ Except in a special case, the Court may extend the validity of the originating claim or originating application only twice and by not more than three months at a time.¹¹

Endorsement

While an originating claim may be generally endorsed with a concise description of the claim, ROC 2021 requires that the statement of claim must still be served within 14 days after the originating claim has been served.¹²

For originating claims before a Magistrate's Court, every pleading served by a party must be accompanied by a list of and a copy of all documents.¹³

Service

The new regime requires that reasonable steps be taken to serve an originating process expeditiously.¹⁴ Where the originating process is to be served in Singapore, reasonable steps must be taken to effect service within 14 days from the issuance of the originating process.¹⁵ Where the originating process is to be served out of Singapore, reasonable steps should be taken to effect service within 28 days from the issuance of the originating process.¹⁶ Where a claimant applies for and obtains an order for substituted service, substituted service must be effected within 14 days after the order of Court.¹⁷

⁸ O 5 r 3 of ROC 2021

⁹ O 33 r 2(9) of ROC 2021

¹⁰ O 6 r 3(1) of ROC 2021

¹¹ O 6 r 3(4) of ROC 2021

¹² O 6 r 5(5) of ROC 2021

¹³ O 65 r 2(1) of ROC 2021

¹⁴ O 2 r 3 of ROC 2021

¹⁵ O 6 r 5(6) and O 6 r 11(4) of ROC 2021

¹⁶ O 6 r 5(7) and O 6 r 11(5) of ROC 2021

¹⁷ O 7 r 7(3) of ROC 2021

Where the claimant fails to serve the originating summons by the first case conference, the Court may dismiss the action if it is not satisfied that the claimant has taken reasonable steps to effect service expeditiously.¹⁸

ROC 2021 provides that ordinary service may be effected by email at an email address provided by the party to be served without the need for a prior Court direction authorising service in this manner.¹⁹ Court's approval will no longer be required for service out of Singapore if such service is allowed under a contract between the parties.²⁰

Where a party has no address in Singapore, the party may give notice by letter to all the other parties stating an electronic mail address for service of all documents and by doing so, the party is deemed to agree that ordinary service and personal service of all documents may be effected using that electronic mail address.²¹

Contest

After the defendant has been served with the statement of claim, the defendant must file and serve:

- a notice of intention to contest or not to contest the claim within 14 days (if they were served in Singapore)²² or 21 days (if they were served out of Singapore)²³ of service of the statement of claim; and
- a defence to the originating claim within 21 days (if they were served in Singapore) or five weeks (if they were served outside Singapore) of service of the statement of claim.

If the defendant fails to comply with the above filing deadlines, the claimant may apply for judgment to be given against the defendant.

Pleadings

Parties will affix their signatures to pleadings filed in an originating claim action to certify that the contents of the pleadings are true to the best of their knowledge and belief, while solicitors will affix their signatures to certify that they have advised their clients of this obligation.²⁴

¹⁸ O 9 r 5(1)(a) of ROC 2021

¹⁹ O 7 r 3(b) of ROC 2021

²⁰ O 8 r 1(3) of ROC 2021

²¹ O 4 r 8(9) of ROC 2021

²² O 6 r 12(1) of ROC 2021

²³ O 6 r 12(2) of ROC 2021

²⁴ Form 9 (Statement of Claim) and Form 13 (Defence) of ROC 2021

Parties can amend their pleadings only with the Court's leave or by written agreement, and no less than 14 days before the commencement of trial, save for exceptional reasons. Parties may agree on an extension of time for filing, serving, or amending any pleading or other document only once, by consent in writing, for a maximum period of 14 days without an order of the Court.²⁵ If parties intend to file further pleadings (such as a reply), they must seek the Court's approval.

Case Conference

The Court will fix a case conference (formerly known as pre-trial conference) for the matter eight weeks (where the defendant is served in Singapore) or 12 weeks (where the defendant is served outside Singapore) after the originating claim or originating application is issued.²⁶

The purpose of the case conference is for the Court to take control of and set timelines and give directions for the proceedings.²⁷ The Court may hold as many case conferences as the Court thinks appropriate and at any stage of the proceedings, including appeals. The Court may make appropriate orders such as the dismissal of the action if the claimant fails to serve the originating process or the giving of judgment if the defendant is absent or the defendant fails to file and serve a defence.

Affidavits of Evidence-In-Chief

Affidavits of evidence-in-chief (**AEICs**) are now usually filed after the discovery stage. However, the ROC 2021 allows the Court to order the filing of AEICs after pleadings have been filed and served but prior to any exchange of documents.²⁸ The Court may also order that AEICs be filed simultaneously or in any sequence.

For AEICs in originating claims, the maker of the affidavit must include at the top left-hand portion of the first page of the affidavit a colour photograph of the maker.²⁹

Single Application Pending Trial

Under the current regime, parties can consider filing interlocutory applications at any point during the proceedings. The ROC 2021 introduces the single application pending trial. This seeks to prevent parties from litigating in a step-by-step fashion and, in the process, generating a host of applications at the pre-

²⁵ O 3 r 4(3) of ROC 2021

²⁶ O 9 r 1 of ROC 2021

²⁷ O 9 r 2(2) of ROC 2021

²⁸ O 9 r 8(1) of ROC 2021

²⁹ O15 r 19(2) of ROC 2021

trial stage. The Court will direct the parties, as far as possible, to consolidate their interlocutory applications into a single application pending trial (SAPT). Such interlocutory applications include:

- security for costs;
- further and better particulars of pleadings;
- amendment of pleadings;
- filing of further pleadings;
- striking out of part of action or of the defence;
- interim relief and
- production of documents or discovery.

The Court must order the applying party to file and serve that party's application and supporting affidavit within 21 days after the date of the case conference and the other party to file and serve an affidavit in reply within 21 days thereafter.³⁰ If the parties intend to file any of the applicable interlocutory applications after the SAPT, the parties must seek the Court's approval to do so by way of a letter setting out the essence of the intended application and the reasons why it is necessary at that stage of the proceedings.³¹

However, certain applications as provided under Order 9 Rule 9 (7) of The ROC 2021, such as applications for substituted service, judgment in default, summary judgment and a stay of execution will be excluded from this SAPT.

Expert Evidence

Under the new regime, the Court will take on a bigger role in determining when and how expert evidence is used. The Court is empowered to give all appropriate directions relating to the appointment of experts, including the method of questioning in Court and the remuneration to be paid to them.³²

The ROC 2021 provides that as far as possible, parties must agree on one common expert. Except in a special case and with the Court's approval, a party must not rely on expert evidence from more than one expert for any issue. The parties must also agree on the list of issues and the common set of agreed or assumed facts that the experts are to rely on. If there is no agreement, the Court will decide on the list of issues and the common set of agreed or assumed facts.³³

³⁰ O 9 r 9(5) of ROC 2021

³¹ O 9 r 9(8) of ROC 2021

³² O 12 r 3(4) of ROC 2021

³³ O 12 r 3 and 4 of ROC 2021

In the case where there is more than one expert, the Court may order all or some of the experts testify as a panel.³⁴

Enforcement Order

Application Process

The ROC 2021 consolidates all methods of enforcement into a single enforcement order. An enforcement applicant may apply to Court by summons without notice for an enforcement order not earlier than 3 days after the Court order has been served on the enforcement respondent.³⁵ Order 22 Rule 2(4) of ROC 2021 specifies the information that is required to be in the affidavit supporting the application. Where there are multiple methods of enforcement sought, the enforcement applicant should state whether the Sheriff is to enforce them in any sequence or whether all or some methods are to be enforced simultaneously. Where the enforcement order does not specify the sequence of enforcement, the Sheriff may carry out its terms in any order and sequentially or concurrently, in the Sheriff's discretion.³⁶

The supporting affidavit must also contain a written undertaking from the enforcement applicant's solicitors, if represented, or the enforcement applicant, if not represented. The undertaking is to indemnify the Sheriff against all claims, costs and expenses arising from complying with the enforcement order; to pay upon request all charges, commissions, expenses and fees incurred by or payable to the Sheriff in complying with the enforcement order; and to deposit the amount of money requested by the Sheriff before the Sheriff complies with the enforcement order and from time to time.³⁷

Validity and Extension

An enforcement order is valid in the first instance for 12 months beginning with the date of issue and may be extended by the Court for a period of 12 months at any time provided the application is made before the expiry of the enforcement order.³⁸ The priority of an enforcement order, the validity of which has been extended, is determined with reference to the date on which it was originally issued.³⁹

The enforcement order ceases to be valid if satisfaction of the judgment is recorded by filing the consent of the judgment creditor or the enforcement applicant gives written notice to the Sheriff not to take further action on the enforcement order because the enforcement respondent has complied with all the terms of the Court order or for any other reason.⁴⁰

³⁴ O 12 r 7 of ROC 2021

³⁵ O 22 r 2(3) of ROC 2021

³⁶ O 22 r 6(2) of ROC 2021

³⁷ O 22 r 2(4) (m) of ROC 2021

³⁸ O 22 r 2(6) of ROC 2021

³⁹ O 22 r 2(7) of ROC 2021

⁴⁰ O 22 r 2(8) of ROC 2021

Powers of Sheriff

An enforcement order authorises the Sheriff to do one or more of the following:

- (a) seize and sell all property belonging to the enforcement respondent;
- (b) seize and deliver or give possession of property in the possession or control of the enforcement respondent;
- (c) attach a debt which is due to the enforcement respondent from any non-party, whether immediately or at some future date or at certain intervals in the future including where the non-party is a financial institution, whether the deposit has matured and despite any restriction as to the mode of withdrawal; and
- (d) to do anything specified in the Court order.⁴¹

All methods of enforcement, including the attachment of a debt due from a person to the enforcement respondent, are to be carried out by the Sheriff.

Where the value of the seized property is estimated by the Sheriff to be more than \$20,000, the sale must be conducted by an auctioneer and by public auction.⁴²

The Sheriff may however engage, or direct the enforcement applicant to engage, the services of auxiliary police officers, security agencies, providers of transport and of warehousing, valuers, estate agents, brokers, solicitors and other appropriate persons to assist the Sheriff in all matters relating to the enforcement order or a seizure, attachment or sale under any Court order.⁴³

Objections to Seizure or Attachment

Where any person objects (referred to in ROC 2021 as “the objector”) to any seizure of property or attachment of a debt by the Sheriff, the objector must within 14 days of service of the notice of seizure or attachment file a notice of objection and serve a copy of the notice of objection on the enforcement applicant, the enforcement respondent (if not the objector) and any non-party served with the notice of attachment (if not the objector).⁴⁴ The notice of objection must state the grounds of objection and include any supporting evidence.⁴⁵ If the enforcement applicant accepts the grounds of objection, the enforcement applicant must give notice in writing to the Sheriff and the objector within 14 days of the objection that the enforcement applicant consents to the release from seizure of the specified property or the release from attachment of the specified debt, and the Sheriff must release the specified property or debt accordingly.⁴⁶ If the enforcement applicant, within 14 days of the objection, fails to consent to the release or gives notice of dispute, the Sheriff may direct the objector to apply to the Court for an order to release the specified property or debt.⁴⁷

⁴¹ O 22 r 2(2) of ROC 2021

⁴² O 22 r 7(5) of ROC 2021

⁴³ O 22 r 6(11) of ROC 2021

⁴⁴ O 22 r 10(1) of ROC 2021

⁴⁵ O 22 r 10(2) of ROC 2021

⁴⁶ O 22 r 10(3) of ROC 2021

⁴⁷ O 22 r 10(4) of ROC 2021

If so directed by the Sheriff, the objector must apply by summons supported by affidavit within 7 days of the direction, failing which the objection is deemed to have been withdrawn.⁴⁸

Sheriff's Commission

The Sheriff is entitled to a commission of 2% of the gross amount of deposits, money or debt attached; the gross proceeds of sale of properties ordered to be sold and the gross sale proceeds of the seized properties, subject to a minimum amount of S\$100 and a maximum amount of S\$50,000.⁴⁹

If property is seized or ordered to be sold but is not sold for any reason, the Sheriff is entitled to a commission of 2% of the estimated value of the seized property or the amount stated in the enforcement order to be due to the enforcement applicant (whichever is less), subject to a minimum amount of S\$100 and a maximum amount of S\$50,000.⁵⁰

If the sale proceeds are insufficient to pay the enforcement costs, the enforcement applicant must pay the amount of the shortfall to the Sheriff. The enforcement applicant who pays the shortfall to the Sheriff is entitled to add that amount due to the enforcement applicant as part of the enforcement costs.⁵¹

Other Enforcement Methods

There are other enforcement methods under ROC 2021 and proceedings under the Debtors Act 1934⁵² and the Distress Act 1934.⁵³ The processes for these enforcement methods remain largely similar to that of the current regime.

Late Filing Fees

The ROC 2021 empowers the Court to impose late filing fees of S\$50 for each day that a document remains unfiled after the expiry of the period within which the document is required to be filed, excluding non-court days.⁵⁴

Generally, page limits will be imposed for written submissions in originating applications or opening statements. The court may allow the page limit to be exceeded in special circumstances and upon payment of the fees and additional fees prescribed for the filing of pages in excess of the page limit.⁵⁵

⁴⁸ O 22 r 10(5) of ROC 2021

⁴⁹ O 22 r 9(2) of ROC 2021

⁵⁰ O 22 r 9(3) of ROC 2021

⁵¹ O 22 r 9(6) and (7) of ROC 2021

⁵² O 37 of ROC 2021

⁵³ O 40 of ROC 2021

⁵⁴ O 3 r 2(4)(e) of ROC 2021

⁵⁵ O 9 r 25(15) of ROC 2021

Conclusion

The ROC 2021 are intended to simplify the rules, modernize the language, and streamline the litigation process with the aim of enhancing efficiency and speed of adjudication. The Courts have also been given greater control and powers in managing the progress of the cases. The effect is that claimants must be better prepared in ensuring that they have the necessary documents to establish their claim at an early stage of the proceedings. The claimant must also be certain that they intend to pursue their claims before commencing proceedings. The new regime restricts a claimant's ability to commence an action just to preserve their position or use it as a tool to advance on-going settlement negotiations.

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