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**SUPREME COURT OF JUDICATURE ACT
(CHAPTER 322)**

RULES OF COURT (AMENDMENT NO. 5) RULES 2014

In exercise of the powers conferred on us by section 80 of the Supreme Court of Judicature Act and all other powers enabling us under any written law, we, the Rules Committee, hereby make the following Rules:

Citation and commencement

1. These Rules may be cited as the Rules of Court (Amendment No. 5) Rules 2014 and shall come into operation on 15 November 2014.

New Order 109

2. The Rules of Court (R 5, 2014 Ed.) are amended by inserting, immediately after Order 108, the following Order:

“ORDER 109

PROTECTION FROM HARASSMENT ACT 2014

Interpretation (O. 109, r. 1)

- 1.—(1) In this Order, unless the context otherwise requires —
- “Act” means the Protection from Harassment Act 2014 (Act 17 of 2014), and any reference to a section shall be construed as a reference to a section in the Act;
 - “author” has the same meaning as in section 15(7);
 - “communication” has the same meaning as in section 2;
 - “Court” means a District Court;
 - “offending communication” has the same meaning as in section 2;

“protection order” includes an expedited protection order made under section 13;

“publish” has the same meaning as in section 2;

“respondent” has the same meaning as in section 2;

“section 15(2) order” means an order made under section 15(2);

“subject” has the same meaning as in section 15(1);

“victim” means a victim under section 3, 4, 5, 6 or 7 (as the case may be).

(2) In this Order, unless the context otherwise requires —

- (a) a reference to a person to whom a protection order applies or is to apply is a reference to a person who is to be prohibited by the protection order from publishing or continuing to publish an offending communication, whether or not that person was a party, or was identified by the Court as a person to whom the protection order is to apply, when the protection order was made;
- (b) a reference to a person to whom a section 15(2) order applies or is to apply is a reference to a person who is to be prohibited by the section 15(2) order from publishing or continuing to publish a statement complained of, whether or not that person was a party, or was identified by the Court as a person to whom the section 15(2) order is to apply, when the section 15(2) order was made; and
- (c) a person has editorial control over a publication on the Internet of an offending communication or a statement, if the person decides, before the person causes that publication, whether to publish that communication or statement.

**Application under section 12(1) for protection order
(O. 109, r. 2)**

2.—(1) An application under section 12(1) for a protection order must be made by ex parte originating summons in Form 235 and supported by an affidavit in Form 236.

(2) The Court may give such directions for the service of the application and supporting affidavit on the respondent, and any other person to whom the protection order is to apply, including directions for service out of jurisdiction, as the Court thinks fit.

(3) Where the Court has given directions for the service of the application and supporting affidavit on any person, the applicant must, within 8 days after the date on which the application and supporting affidavit are served on that person, file an affidavit of service.

(4) Each of the following persons may file an affidavit in reply in Form 237 within 14 days after being served with the application and supporting affidavit:

- (a) the respondent;
- (b) any other person to whom the protection order is to apply.

(5) Except with the leave of the Court, no other affidavit is to be filed or served for the purposes of the application.

(6) Order 28, Rule 8 shall not apply to any proceedings in the application.

(7) The Court may —

- (a) give such directions for the hearing of the application as the Court thinks fit;
- (b) conduct the hearing of the application in such manner as the Court thinks fit; and
- (c) where any party does not appear at the hearing of the application, proceed with the hearing of the application in the absence of that party.

(8) In any case where the Court thinks fit, the Court may under paragraph (7)(a) and (b) —

- (a) make an order referring the respondent or the victim or both to attend such counselling or mediation as the Court may direct;
- (b) give any direction necessary for and incidental to the proper carrying into effect of that order; and
- (c) stay all further proceedings in the application until the respondent or the victim or both (as the case may be) have attended the counselling or mediation (as the case may be).

(9) A protection order —

- (a) must be in Form 238;
- (b) must be served on the respondent (if the protection order applies to the respondent), and on every other person to whom the protection order applies —
 - (i) in such manner as the Court may direct; and
 - (ii) in the case of an expedited protection order, together with a copy each of the application for the order and the affidavit in support of the application; and
- (c) must contain, or be served with an order of the Court containing, the Court's directions referred to in sub-paragraph (b)(i).

(10) For the purposes of section 12(5)(a), any order under section 12(3)(b) or direction under section 12(3)(d) concerning a publication of an offending communication on the Internet shall take effect —

- (a) for any person who (before causing that publication) did not have any editorial control over that publication, in respect of that publication, from the date when that order or direction is served, together with a notification in Form 239 of the particulars of

the offending communication and of that publication, on that person in such manner as the Court may direct; or

- (b) for any person who (before causing that publication) had editorial control over that publication, from the date when that order or direction is served, together with a notification in Form 239 of the particulars of the offending communication and of any publication of the offending communication (whether or not on the Internet), on that person in such manner as the Court may direct.

(11) For the purposes of section 12(5)(a), any order under section 12(3)(b) or direction under section 12(3)(d) concerning an offending communication published other than on the Internet shall take effect, for any person to whom that order or direction applies, from the date when that order or direction is served, together with a notification in Form 239 of the particulars of the offending communication and of any publication of the offending communication (whether or not on the Internet), on that person in such manner as the Court may direct.

(12) Every notification in Form 239 must be filed before it is served pursuant to paragraph (10) or (11).

(13) The party in whose favour any order under section 12(3)(b) or direction under section 12(3)(d) is made may apply to the Court for leave to amend a notification in Form 239, and for directions for the service, on each person to whom the order under section 12(3)(b) or direction under section 12(3)(d) applies, of —

- (a) that order or direction and the amended notification, if that person is —
- (i) a person to whom paragraph (10)(a) applies; or
 - (ii) a person to whom paragraph (10)(b) or (11) applies and on whom that order or direction has not been served previously; or