

Rules of Court (Amendment No. 4) Rules 2003

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No. S 561

SUPREME COURT OF JUDICATURE ACT (CHAPTER 322)

RULES OF COURT (AMENDMENT NO. 4) RULES 2003

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.—(1) These Rules may be cited as the Rules of Court (Amendment No. 4) Rules 2003 and shall, with the exception of rules 3, 4, 5 and 6(a), come into operation on 15th December 2003.

(2) Rules 3, 4, 5 and 6(a) shall come into operation on 1st January 2004.

Amendment of Order 1

2. Order 1, Rule 2(4) of the Rules of Court (R 5) (referred to in these Rules as the principal Rules) is amended by inserting the words “Order 63A and items 70B, 71, 71D to 71I and 79 of Appendix B.” under the heading “*Applicable Provisions*” in item 5.

Amendment of Order 73

3. Order 73, Rule 10 of the principal Rules is amended by deleting paragraph (2) and substituting the following paragraph:

“(2) In any civil proceedings to which the Government is a party, any order of the Court made under the powers conferred by section 34(1) of the Government Proceedings Act (Chapter 121) shall be construed as not requiring the disclosure of any document the withholding of which is authorised or required under any other written law or rule of law on the ground that its disclosure would be injurious to the public interest.”.

New Orders 93 and 94

4. The principal Rules are amended by inserting, immediately after Order 92, the following Orders:

“ORDER 93

SECURITIES AND FUTURES ACT

CIVIL LIABILITY ACTIONS

Interpretation and application (O. 93, r. 1)

1.—(1) In this Order —

“Act” means the Securities and Futures Act (Chapter 289) and any reference to a section shall be construed as a reference to a section in the Act;

“Authority” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Chapter 186);

“claimant” has the same meaning as in section 234(1);

“contravening person” has the same meaning as in section 234(1).

(2) These Rules apply to proceedings under sections 234, 235 and 236, subject to the following Rules of this Order.

Commencement of action under section 234, etc. (O. 93, r. 2)

2.—(1) An action under section 234 shall be commenced by writ.

(2) Every application for leave of the Court under section 235(1) to commence an action under section 234 shall be made by originating summons, naming as the defendant therein the contravening person.

(3) Order 28 shall, unless expressly modified herein, apply to every originating summons under this Rule.

(4) The application under paragraph (2) shall be supported by an affidavit setting out —

- (a) particulars of the securities, futures contract or contract or arrangement in connection with the leveraged foreign exchange trading transaction in question;
- (b) circumstances leading to the entering into of the transaction in question;
- (c) circumstances leading to the loss suffered;
- (d) particulars of the loss suffered; and
- (e) the grounds on which the application is made.

(5) The application under paragraph (2) and supporting affidavit under paragraph (4) shall in the first instance be served only on the contravening person; but the Court may direct the application and supporting affidavit to be served on any other person appearing to be interested.

(6) No appearance needs to be entered to an originating summons under this Rule.

(7) An application for leave of the Court to continue an action under section 234 which has been stayed under section 235(2) shall be made by summons in the stayed action and supported by an affidavit setting out the

grounds on which the application is made.

(8) The application and supporting affidavit under paragraph (7) shall in the first instance be served only on the defendant; but the Court may direct the application and supporting affidavit to be served on any other person appearing to be interested.

Application for directions on claims under section 236 (O. 93, r. 3)

3.—(1) A claimant seeking compensation from a contravening person —

- (a) convicted for a contravention of any provision of Part XII of the Act; or
- (b) against whom an order for a civil penalty is made under section 232 (other than a consent order under section 232(4)) for such a contravention,

may apply to the Court for directions on claims for compensation in respect of that contravention, and the Court may, subject to section 236(2), fix a return date for hearing the application.

(2) An application under paragraph (1) shall not be made before the conviction or the order making the civil penalty has been made final in accordance with section 236(4) or (5).

(3) Every application under paragraph (1) shall be made by originating summons.

(4) Order 28 shall, unless expressly modified herein, apply to every originating summons under this Rule.

(5) No appearance needs to be entered to an originating summons under this Rule.

(6) Unless the Court otherwise orders, the application must be served personally at least 28 clear days or such longer time as the Court may direct before the return date, on the contravening person.

(7) Every application shall be advertised in Form 200 at least 21 clear days or such longer time as the Court may direct before the return date of the application, at least once in one English and one Chinese local daily newspaper or in such other newspaper as the Court may direct.

(8) The advertisement shall state the day on which the application was filed and the name and address of the applicant and of his solicitor.

(9) If the claimant making the application or his solicitor does not comply with paragraph (6), (7) or (8), the appointment of the time and place at which the application is to be heard shall be cancelled by the Court and the application shall be deemed dismissed, unless the Court otherwise directs.

Proof of claim under section 236 (O. 93, r. 4)

4.—(1) At least 7 clear days before the return date of the application under Rule 3(1), each claimant desiring to claim compensation against the contravening person under section 236 in respect of the same contravention for which the contravening person has been convicted or had a civil penalty order under section 232 made against him, must state his claim by filing an affidavit in accordance with paragraph (2).

(2) The affidavit shall be supported by the relevant exhibits, and must explain the grounds on which the claimant's claim is made, including:

- (a) particulars of the securities, futures contract or contract or arrangement in connection with the leveraged foreign exchange trading transaction in question;
- (b) circumstances leading to the entering into of the transaction in question;
- (c) circumstances leading to the loss suffered; and
- (d) particulars of the loss suffered.

(3) Without limiting the generality of paragraph (2), the exhibits may include —

- (a) trade notes or slips;
- (b) statements of accounts for the relevant period; and
- (c) copies of instructions given to a broker or remisier.

(4) Every claimant shall serve on the contravening person a copy of the affidavit within 3 days of the filing of the same.

Powers of Court hearing application (O. 93, r. 5)