

Supreme Court of Judicature (Protection from Online Falsehoods and Manipulation) Rules 2019

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No. S 665

SUPREME COURT OF JUDICATURE ACT (CHAPTER 322)

SUPREME COURT OF JUDICATURE (PROTECTION FROM ONLINE FALSEHOODS AND MANIPULATION) RULES 2019

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

Citation and commencement

1. These Rules are the Supreme Court of Judicature (Protection from Online Falsehoods and Manipulation) Rules 2019 and come into operation on 2 October 2019.

Definitions

2.—(1) In these Rules —

“appellant” means —

- (a) in the case of an appeal under section 17 — an individual or body corporate to whom a Part 3 Direction has been issued;
- (b) in the case of an appeal under section 29 —
 - (i) an internet intermediary to whom a Targeted Correction Direction or a Disabling Direction has been issued or who communicated in Singapore the subject material; or
 - (ii) a prescribed person to whom a General Correction Direction

has been issued;

(c) in the case of an appeal under section 35 —

- (i) an individual or body corporate who is the owner or operator of the online location which is the subject of the appeal; or
- (ii) an individual or body corporate body who has editorial control over the online location which is the subject of the appeal; and

(d) in the case of an appeal under section 44 —

- (i) an internet intermediary to whom an Account Restriction Direction has been issued; or
- (ii) an individual or body corporate who is the holder of the specific online account or who has control over an online account which is the subject of an Account Restriction Direction;

“Court” means the High Court;

“Duty Registrar” means the Assistant Registrar designated to perform the duties of the Duty Registrar mentioned in any practice directions issued by the Registrar;

“individual” means a single natural person;

“Registry” means the Registry of the Supreme Court.

(2) Any reference to a Minister includes, where appropriate, the alternate authority appointed by that Minister under Part 8 of the Protection from Online Falsehoods and Manipulation Act 2019 (Act 18 of 2019).

(3) Any reference to a section, unless otherwise expressly provided, is a reference to a section in the Protection from Online Falsehoods and Manipulation Act 2019.

Purpose

3. The purpose of these Rules is to provide for the procedure for an appeal under section 17, 29, 35 or 44, and for matters connected with such appeal.

Application of Rules of Court

4.—(1) Subject to the provisions of these Rules, the Rules of Court (R 5) apply to any

appeal mentioned in rule 3.

(2) Order 28, Rules 2A, 3, 7 and 8, Order 55, Rules 3, 4, 5 and 6(1), (5), (6) and (7), Order 90A, Rules 1(3), (4)(b) and (5) and 5, and Order 91, Rule 5 of the Rules of Court do not apply to, or in respect of, an appeal mentioned in rule 3.

Bringing of appeal

5.—(1) An appeal under section 17, 29, 35 or 44 shall be by way of rehearing and must be brought by originating summons in Form 1 of the First Schedule.

(2) The originating summons must be filed in the Registry —

- (a) in the case of an appeal under section 17, not later than 14 days after the appellant's application under section 19 to vary or cancel the Part 3 Direction against which the appeal is brought was refused (whether in whole or in part) by the Minister mentioned in section 19;
- (b) in the case of an appeal under section 29, not later than 14 days after the appellant's application under section 31 to vary or cancel the Part 4 Direction against which the appeal is brought was refused (whether in whole or in part) by the Minister mentioned in section 31;
- (c) in the case of an appeal under section 35, not later than 14 days after the appellant's application under section 32(9) to vary or cancel the Declaration against which the appeal is brought was refused (whether in whole or in part) by the Minister mentioned in section 32; and
- (d) in the case of an appeal under section 44, not later than 14 days after the appellant's application under section 46 to vary or cancel the Account Restriction Direction against which the appeal is brought was refused (whether in whole or in part) by the Minister mentioned in section 46.

(3) A supporting affidavit in Form 2 of the First Schedule must be filed at the same time as the originating summons.

(4) If the appellant is also applying for the Direction against which the appeal is brought to be stayed pending the determination of the appeal, the appellant must —

- (a) make the application for the stay in the originating summons in Form 1 of the First Schedule; and
- (b) set out the grounds for the application for the stay in the supporting affidavit in Form 2 of the First Schedule.

(5) Apart from the power of the Court under sections 17(7), 29(8) and 44(8) to direct that the Direction appealed against be stayed pending the determination of the appeal, an

appeal does not operate as a stay of the Direction or Declaration against which the appeal is brought.

Service of originating summons

6.—(1) The appellant’s originating summons and supporting affidavit must be served —

- (a) on the Attorney-General not later than 12 noon on the working day immediately after the day on which the originating summons and supporting affidavit are accepted by the Registrar; and
- (b) by —
 - (i) sending an electronic communication of the originating summons and supporting affidavit by email to the Attorney-General at AGC_POFMA@agc.gov.sg;
 - (ii) using the electronic filing service established under Order 63A of the Rules of Court; or
 - (iii) leaving a copy of the originating summons and supporting affidavit, contained in an envelope marked “POFMA APPEAL”, at the reception counter of the Attorney-General’s Chambers at 1 Upper Pickering Street, Singapore 058288.

(2) The appellant must within 2 working days after the date on which the appellant’s originating summons and supporting affidavit are served on the Attorney-General, file in the Registry —

- (a) an affidavit of service; or
- (b) the Registrar’s certificate of service issued through an electronic filing service provider or a service bureau in lieu of an affidavit of service, mentioned in Order 63A, Rule 12(4).

(3) The Court may proceed with an appeal despite the appellant refusing or failing to comply with paragraph (2).

Affidavit in reply

7.—(1) The Minister against whose Direction or Declaration the appeal is brought may file an affidavit in reply in Form 3 of the First Schedule.

(2) The affidavit in reply may be deposed by a person authorised by the Minister mentioned in paragraph (1).

(3) The affidavit in reply must be filed and served within 3 working days after the date on which the appellant's originating summons and supporting affidavit are served under rule 6.

Subsequent affidavits

8. Except with the leave of the Court, no affidavit (other than the supporting affidavit and the affidavit in reply) is to be filed or served for the purposes of an appeal.

Hearing date

9.—(1) An appellant must, after filing the appellant's originating summons and supporting affidavit in the Registry, attend before the Duty Registrar to request for a hearing date for the appeal.

(2) The appellant must comply with paragraph (1) —

- (a) within the office hours of the Registry on the day that the appellant's originating summons and supporting affidavit are filed in the Registry; or
- (b) if the originating summons and supporting affidavit are filed in the Registry after the office hours of the Registry, within the office hours of the Registry on the next working day.

(3) If the appellant complies with paragraph (1) within the time specified in paragraph (2)(a) or (b), the Duty Registrar must, unless the appellant requests for a later hearing date, appoint as a hearing date for the appeal a date that is 6 working days after the later of —

- (a) the date on which the appellant's originating summons and supporting affidavit are accepted by the Registry; and
- (b) the date on which the appellant attended before the Duty Registrar.

(4) If the appellant files the appellant's originating summons and supporting affidavit in the Registry, but fails to attend before the Duty Registrar within the time specified in paragraph (2)(a) or (b), the Registrar may appoint a hearing date for the appeal as the Registrar thinks fit, being a date not earlier than 6 working days after the date on which the appellant's originating summons and supporting affidavit are accepted by the Registrar.

(5) Unless the Duty Registrar directs otherwise, any application to stay the Direction against which an appeal is brought pending the determination of the appeal is to be heard together with the appeal.

Amendment of grounds of appeal

10. No grounds other than those stated in the originating summons by which the appeal is brought, or in the supporting affidavit, may be relied upon by the appellant at the hearing —

- (a) except with the leave of the Court hearing the appeal; and
- (b) except that the Court hearing the appeal may amend the grounds so stated or make any other order, on such terms as the Court thinks just, to ensure the determination on the merits of the real question in controversy between the parties.

Conduct of hearing

11. The Court hearing an appeal may —

- (a) give such directions for the hearing of the appeal as the Court thinks fit;
- (b) conduct the hearing of the appeal 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 appeal in the absence of that party.

Court fees

12.—(1) Where each appellant in an appeal is an individual, the fees payable by an appellant on the filing of an originating summons and any affidavit under these Rules are as specified in Part 1 of the Second Schedule.

(2) Except as provided in paragraph (1), the fees payable by a party in an appeal are as specified in Order 91, Rule 1(1) of the Rules of Court, read with Appendix B to the Rules of Court.

Hearing fees

13. The fees payable for the hearing of an appeal before the Court are as specified in Part 2 of the Second Schedule.

Deferment, waiver or refund of court fees and hearing fees

14.—(1) The Registrar may, in any case, and on such terms and conditions as the Registrar thinks fit, defer the payment of the whole or any part of any court fees or hearing fees.

(2) The Court hearing an appeal may, after hearing the parties, do any of the following on the ground that the appellant is impecunious or for any other appropriate reason:

- (a) where the Registrar has deferred under paragraph (1) the payment of any court fees or hearing fees — waive the payment of the whole or any part of those court fees or hearing fees, as the case may be;
- (b) refund the whole or any part of any court fees or hearing fees paid;
- (c) direct that the whole or any part of any court fees or hearing fee be paid by any party or be apportioned among all or any of the parties.

(3) An appellant who intends to request for a waiver or refund of any court fees or hearing fees must, if the request was not made at the hearing of the appeal itself, submit a written request for the waiver or refund to the Court hearing the appeal not later than one month after the appeal.

Costs

15.—(1) Subject to paragraph (2), an appellant that is an individual may not be ordered to pay any costs.

(2) The Court may order the appellant to pay the costs of, or incidental to, the appeal if the Court is satisfied that —

- (a) the commencement, continuation or conduct of the appeal by the appellant was an abuse of the process of the Court; or
- (b) the conduct of the appeal by the appellant was done in an extravagant and unnecessary manner.

Leave required for appeal to Court of Appeal in certain cases

16. Where a Judge at the hearing of an appeal under section 17, 29, 35 or 44 refuses to set aside the Direction or Declaration, as the case may be, against which the appeal was brought, an appeal against the decision of the Judge, may, in accordance with paragraph 1(j) of the Fifth Schedule to the Supreme Court of Judicature Act, be brought to the Court of Appeal only with the leave of the Court or the Court of Appeal.

FIRST SCHEDULE

Rules 5(1), (3) and (4) and 7(1)

FORM 1

ORIGINATING SUMMONS

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

FORM 2
AFFIDAVIT IN SUPPORT OF APPEAL
UNDER SECTION 17/29/35/44¹ OF
PROTECTION FROM ONLINE FALSEHOODS
AND MANIPULATION ACT 2019
(ACT 18 OF 2019)
IN THE HIGH COURT OF
THE REPUBLIC OF SINGAPORE

In the matter of an appeal under section 17/29/35/44¹ of the Protection from Online Falsehoods and Manipulation Act 2019.

AFFIDAVIT

I, (name of appellant), do make oath (or affirm) and say that the statements contained in the document exhibited and marked “A” are true.

Sworn (or affirmed) as in Form 78 of Appendix A of the Rules of Court.

EXHIBIT “A”

Part A — Appellant’s Particulars

1. My particulars are as follows²:

- (a) if an individual:
 - (i) Name:
 - (ii) NRIC No. (for Singapore citizen) or No., type and country of issue of foreign identification document (for foreign citizen):
 - (iii) Citizenship:
 - (iv) Gender:
 - (v) Date of birth:
 - (vi) Address:
 - (vii) Telephone No.:
 - (viii) Email address:

- (ix) Language(s) spoken:
- (b) if not an individual:
 - (i) Name:
 - (ii) Unique Entity Number (UEN), where applicable:
 - (iii) Place of incorporation/formation:
 - (iv) Date of incorporation/formation:
 - (v) The following details of authorised representative or authorised officer of the Appellant:
 - (A) Name:
 - (B) NRIC No. (for Singapore citizen) or No., type and country of issue of foreign identification document (for foreign citizen):
 - (C) Address:
 - (D) Contact details:

Part B — Background Information

2. A Direction was issued/Declaration was made¹ in respect of (statement of fact/material/online location¹) on (date).
3. An application was made to the relevant Minister to cancel/vary¹ the Direction/Declaration¹ on (date).
4. The application to cancel/vary¹ the Direction/Declaration¹ was rejected in whole/in part¹ by the relevant Minister on (date).
5. I am/I am the authorised representative of/I am an authorised officer of¹ —
 - (a) the person to whom the Direction was issued;
 - (b) the person who communicated in Singapore the subject material;
 - (c) the owner or operator of/person with editorial control over¹ the online location;
 - (d) the holder of/person with control over¹ the specified online account.
6. I attach the following evidence in support of my statements at paragraphs 3, 4 and 5:
 - (a) Document(s), including —

- (i) documents evidencing the application to the relevant Minister to vary/cancel¹ the Direction/Declaration¹;
 - (ii) a copy of the Direction/Declaration¹ appealed against;
 - (iii) documents evidencing the relevant Minister's rejection of the application; and
 - (iv) where applicable, documents evidencing that I am the authorised representative or an authorised officer of the person mentioned in paragraph 5:
- (b) Photograph(s):
- (c) Other evidence (including electronic documents or records):

Part C — Information in Support of Application

7. I am applying for an order that the Direction issued/Declaration made¹ under the Protection from Online Falsehoods and Manipulation Act 2019 be set aside.
8. The reasons for my application are as follows:
9. I attach the following evidence in support of my statements at paragraph 8:
- (a) Document(s):
 - (b) Photograph(s):
 - (c) Other evidence (including electronic documents or records):

Part D — Application for Stay (where applicable)

10. I am applying for an order that the Direction issued under the Protection from Online Falsehoods and Manipulation Act 2019 be stayed pending the determination of the appeal.
11. The reasons for my application are as follows:
12. I attach the following evidence in support of my statements at paragraph 11:
- (a) Document(s):
 - (b) Photograph(s):
 - (c) Other evidence (including electronic documents or records):

Part E — Confirmation of Contents

13. I confirm that to the best of my knowledge, information and belief, the information contained in this document is true.

[Signature of Appellant]

Name of Appellant:

Date:

- 1 Delete whichever is inapplicable.
- 2 Fill in the particulars in sub-paragraph (a) or (b), as appropriate.

FORM 3

AFFIDAVIT IN REPLY IN RESPONSE
TO APPEAL UNDER SECTION 17/29/35/44¹ OF
PROTECTION FROM ONLINE FALSEHOODS
AND MANIPULATION ACT 2019
(ACT 18 OF 2019)

IN THE HIGH COURT OF
THE REPUBLIC OF SINGAPORE

In the matter of an appeal under section 17/29/35/44¹ of the Protection from Online Falsehoods and Manipulation Act 2019.

And in the matter of (name of Appellant).

AFFIDAVIT

I, (designation of Minister²), do make oath (or affirm) and say that the statements contained in the document exhibited and marked “A” are true.

Sworn (or affirmed) as in Form 78 of Appendix A of the Rules of Court.

EXHIBIT “A”

RESPONSE

Part A — Response against Appeal under section 17/29/35/44¹ of the Protection from Online Falsehoods and Manipulation Act 2019

1. I am opposing the Appellant’s appeal under section 17/29/35/44¹ of the Protection from Online Falsehoods and Manipulation Act 2019.
2. The Direction issued/Declaration made¹ should not be set aside, for the following reasons:
3. I attach the following evidence in support of my statements at paragraph 2:
(a) Document(s):

- (b) Photograph(s):
- (c) Other evidence (including electronic documents or records):

Part B — Response against Application for Stay (where applicable)

- 4. I am opposing the Appellant's application for an order that the Direction issued under the Protection from Online Falsehoods and Manipulation Act 2019 be stayed pending the determination of the appeal.
- 5. The Direction issued should not be stayed pending the determination of the appeal, for the following reasons:
- 6. I attach the following evidence in support of my statements at paragraph 5:
 - (a) Document(s):
 - (b) Photograph(s):
 - (c) Other evidence (including electronic documents or records):

Part C — Confirmation of Contents

- 7. I confirm that to the best of my knowledge, information and belief, the information contained in this document is true.

[Signature of Minister²]

Name of Minister²:

Date:

¹ Delete whichever is inapplicable.

² The particulars/signature of the relevant Minister are to be replaced with the particulars/signature of the person authorised by that Minister to depose the affidavit or by the alternate authority where appropriate.

SECOND SCHEDULE

Rules 12(1) and 13

PART 1

COURT FEES

		<i>Fee</i>	<i>Document to be stamped</i>
1.	On filing of the originating summons	\$200	The filed copy
2.	On filing of an affidavit, for every page or part of a page including exhibit annexed to it or produced with it (whether filed or not)	\$1 per page subject to a minimum fee of \$10 per affidavit	The filed copy

PART 2

HEARING FEES FOR APPEAL BEFORE THE COURT

		<i>Fee</i>	<i>Document to be stamped</i>
1.	For the first to third days	No charge	—
2.	For the whole or part of the fourth day	\$6,000	Request (formerly known as “praecipe”)
3.	For the whole or part of the fifth day	\$2,000	Request (formerly known as “praecipe”)
4.	For each day or part of each day of the sixth to tenth days	\$3,000	Request (formerly known as “praecipe”)
5.	For each day or part of each day subsequent to the above	\$5,000	Request (formerly known as “praecipe”)

Made on 23 September 2019.

SUNDARESH MENON
Chief Justice.

LUCIEN WONG
Attorney-General.

TAY YONG KWANG

Judge of Appeal.

STEVEN CHONG

Judge of Appeal.

BELINDA ANG SAW EAN

Judge.

QUENTIN LOH

Judge.

VINODH COOMARASWAMY

Judge.

SEE KEE OON

Presiding Judge of the State Courts.

JAMES LEONG

District Judge.

FRANCIS XAVIER, SC

Advocate and Solicitor.

KUAH BOON THENG, SC

Advocate and Solicitor.

[SUPCT.RJW.013.0800; LAW 32/006/135; AG/LEGIS/SL/322/2015/1 Vol. 12]

(To be presented to Parliament under section 80(6) of the Supreme Court of Judicature Act).