

IN THE SUBORDINATE COURTS OF THE REPUBLIC OF SINGAPORE

ePRACTICE DIRECTION NO. 2 OF 2009

**REMOVAL OF REQUIREMENT TO SUBMIT
THE ORIGINAL DEATH CERTIFICATE AND INHERITANCE CERTIFICATE
PURSUANT TO THE ELECTRONIC FILING
OF THE ORIGINATING SUMMONS; AND
REMOVAL OF REFERENCE TO THE CAVEAT BOOK
AND SUBSTITUTION OF TERM OF REFERENCE IN ACCORDANCE
WITH ORDER 71 RULE 5(2A).**

**(I) REMOVAL OF REQUIREMENT TO SUBMIT THE ORIGINAL DEATH
CERTIFICATE AND INHERITANCE CERTIFICATE PURSUANT TO THE
ELECTRONIC FILING OF THE ORIGINATING SUMMONS**

1. Under the current Paragraph 118(5) of *The Subordinate Courts Practice Directions (2006 Ed.)*, applicants are required to submit the original death certificate, original will (if any) and original inheritance certificate (if any) to the Probate Counter for verification by 4.30pm of the next working day after the electronic filing of the originating summons. After verification, the originals of the death certificate and the inheritance certificate may be returned to the filing party 3 days after the acceptance by the Court.

2. In view that there is a requirement under Paragraph 118(2) of *The Subordinate Courts Practice Directions (2006 Ed.)* that the certified true copies of the death certificate and the inheritance certificate have to be electronically filed with the originating summons, and the requirement is for certification of such copies by advocates and solicitors acting for the applicants, there will be no longer a need for the submission of the original death certificate and inheritance certificate for purpose of verification.

3. There is still a continuing need for the submission of the original will for compliance with Order 71, rule 47A of the Rules of Court.

**(II) AMENDMENT TO REMOVE REFERENCE TO THE CAVEAT BOOK
AND SUBSTITUTE TERM OF REFERENCE IN ACCORDANCE WITH ORDER
71 RULE 5(2A).**

4. Order 71 Rule 5(2A)(a) of the *Rules of Court* provides that every applicant for a grant or his solicitors shall conduct a search on the record of caveats immediately prior to the filing of the summons.

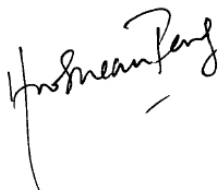
5. In Paragraph 118(3) and Paragraph 121(3) of *The Subordinate Courts Practice Directions (2006 Ed.)*, applicants are respectively required prior to filing the originating summons and prior to filing a request to extract a grant, to make a search in the caveat book of both the Supreme Court and the Subordinate Courts to ascertain if there are any caveats in force against the estate of the deceased. In view that all searches are now done electronically and there is no longer a reference to the caveat book in the *Rules of Court*, reference to the caveat book will be substituted with the reference to the Probate record of caveats.

6. This Practice Direction will take effect on 26 October 2009.

7. A complete and updated version of *The Subordinate Courts Practice Directions (2006 Ed.)* may be downloaded in .PDF Adobe Acrobat format at the “Legislation and Directions” section of the Subordinate Courts website at <http://www.subcourts.gov.sg>.

8. For manual and loose-leaf updating, the specific new and amended paragraphs and the directions for amendments may also be downloaded at the “Legislation and Directions” section of the Subordinate Courts website at <http://www.subcourts.gov.sg>.

Dated this 22nd day of October 2009.



HOO SHEAU PENG
REGISTRAR
SUBORDINATE COURTS

Directions for Amendments

- (1) The existing Table of Contents from the page containing Appendix A to be removed and the new amended pages of the Table of Contents substituted therefor.
- (2) The existing Appendix A to be removed and the new amended Appendix A substituted therefor.
- (3) The existing Paragraph 118 to be removed and the new amended Paragraph 118 substituted therefor.
- (4) The existing Paragraph 121 to be removed and the new amended Paragraph 121 be substituted therefor.

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APPENDIX A

***PRACTICE DIRECTIONS ISSUED
TO AMEND THE SUBORDINATE COURTS
PRACTICE DIRECTIONS (2006 ED.)***

As at 22 October 2009

The following Practice Directions are issued to amend The Subordinate Courts Practice Directions (2006 Ed.):

1. ePD 1 of 2006 Change to Mode of Commencement of Matrimonial Proceedings
2. ePD 2 of 2006 Amendment of Originating Processes, Pleadings and Documents
3. ePD3 of 2006 (1) Amendments to the Rules of Court
(2) Pre-action Protocol for Medical Negligence Claims
4. ePD1 of 2007 Interest on Judgments, Costs and under Order 30, Rule 6(2)
5. ePD2 of 2007 Request for Digital Audio Recording and Transcription Service
6. ePD3 of 2007 Service, Adjournment/Vacation, Attendance before Duty Registrar & Affidavits for Ancillary Matters Hearing
7. ePD4 of 2007 Transfer of Matrimonial, Divorce and Guardianship of Infants Proceedings, and Proceedings Pursuant to Section 17A(2) of the Supreme Court of Judicature Act (Cap. 322) to the District Court

8. ePD1 of 2008 (1) FIDREC Pre-action Protocol for the Management and Resolution of Low-value Non-Injury Motor Accident Claims
(2) Expedited Writ Track
9. ePD2 of 2008 Applications for Grants of Probate or Letters of Administration in respect of Deaths occurring on or after 15 February 2008
10. ePD1 of 2009 Discovery and inspection of electronically stored documents
11. ePD2 of 2009 Removal of requirement to submit the original death certificate and inheritance certificate pursuant to the electronic filing of the originating summons; and removal of reference to the caveat book and substitution of term of reference in accordance with Order 71 rule 5(2A)

118. Originating Summons for grant of probate or letters of administration

- (1) An originating summons for the grant of probate or letters of administration under Order 71, rule 5, of the Rules of Court filed on or after 1 January 2006 shall be submitted together with the statement, through the Electronic Filing Service (EFS) by entering the relevant information in the appropriate electronic template without attaching the document in the *Portable Document Format (PDF)*. Any originating summons filed on or after 1 January 2006 must also be accompanied by a checklist as prescribed in Form 12 of Appendix B to these Directions (“Checklist for OS (Probate)”), which shall also be duly completed and submitted by the filing party by entering the relevant information in the appropriate electronic template.
- (2) The following supporting documents (whichever may be relevant) must be electronically filed in the same submission as related documents, but separately from the originating summons and checklist:
 - (a) in all cases, a certified true copy of the death certificate of the deceased or a certified true copy of the Order of Court for presumption of death of the deceased;
 - (b) where there is a will, a certified true copy of the will;
 - (c) in the case of Muslim estates, a certified true copy of the inheritance certificate; and
 - (d) in relation to deaths occurring on or after 15 February 2008, two copies of Schedule of Assets listing the property comprising the estate of the deceased in accordance with Paragraph 120A of these Directions; and
 - (e) any other documents in support of the originating summons required under the Probate and Administration Act (Cap. 251, 2000 Revised Edition) or the Rules of Court. The administration oath under section 28 of the Probate and Administration Act (Cap. 251, 2000 Revised Edition) may, however, be filed at the same time as the supporting affidavit under Order 71, rule 5, of the Rules of Court as required by sub-paragraph (6).

- (3) Prior to filing the originating summons, the applicant or his solicitor must conduct a litigation search in the record of caveats for both the Supreme Court and the Subordinate Courts to ascertain if there are any caveats in force against the estate of the deceased. The Certificate of Result of Caveat Search (Form 173 of Appendix A to the Rules of Court) together with the search reports for both Courts must be submitted when filing the originating summons.
- (4) If the originating summons and the statement are in order, they will be accepted and a Probate Number will be assigned to the originating summons.
- (5) The original will (if any) must then be submitted to the Probate Counter for verification by 4.30 p.m. of the next working day after the electronic filing of the originating summons. Where the original will has been retained in the custody of a foreign court, a certified true copy of the will by that foreign court must be submitted in place of the original. The original will shall be retained by the Probate Counter in compliance with Order 71, rule 47A, of the Rules of Court.
- (6) Order 71, rule 5(2), of the Rules of Court provides that the statement, which is filed together with an originating summons for the grant of probate or letters of administration, must be verified by an affidavit of the applicant. For originating summonses filed on or after 1 January 2006, the supporting affidavit under Order 71, rule 5 (“the supporting affidavit”) shall be in the prescribed format in Form 41 of Appendix B and state that the applicant deposes to the truth of the contents of the statement and the exhibits thereto required under Order 71, rule 5(2), of the Rules of Court. The exhibits (apart from the statement and the Schedule of Assets which have already been filed with the originating summons) are to be listed in a “Table of Contents of Exhibits” in the supporting affidavit. These exhibits can then be detached and are not required to be filed together with the supporting affidavit. The supporting affidavit must state that the statement exhibited therein is the same statement generated by the EFS, and the contents entered into the EFS, and which now appear in the statement are

true and accurate. The statement bearing the court seal and the Schedule of Assets are to be exhibited as the first and second exhibits respectively in the supporting affidavit filed. In regards to applications by a trust corporation, the supporting affidavit must in addition, state that the applicant company is a trust company and that it has the power to accept grant, and that the officer has been authorised by the applicant company through a resolution of their board of directors, a certified true copy whereof under the seal of the company is exhibited therein. The supporting affidavit shall be filed within 14 days after the filing of the originating summons.

- (7) No hearing date or order-in-terms of an originating summons for the grant of probate or letters of administration will be given until the supporting affidavit has been filed. An order-in-terms of the originating summons will be granted if all the documents are in order and upon acceptance of the supporting affidavit. Otherwise, a date will be fixed for the hearing of the originating summons.
- (8) If there are errors in the originating summons and the statement or missing documents, the entire set of documents will be rejected and the reason(s) for rejection will be indicated on the Checklist. The onus is on the solicitor concerned to review the rejected documents, having regard to the comments on the Checklist, before re-filing a fresh originating summons and statement.
- (9) Where a party seeks to rectify any errors in the originating summons, an application may be made by way of a summons to amend the originating summons. The draft amended originating summons in PDF format, prepared in accordance with Paragraph 13(2)(b) and (c) of these Directions, should be annexed to the affidavit in support of the summons.
- (10) Where a party seeks to rectify any error in the statement, other than errors that also appear in the originating summons prior to the order for the grant, he may do so by amending the information in the appropriate electronic template *without* attaching the amended statement in *PDF* format, and filing a supplementary affidavit, and stating the reason for the

amendments. Where it is necessary to amend the information in the statement after order is made for the grant, an application must be made by way of summons, together with an affidavit in support and the draft amended statement in PDF format must be annexed to the summons. The Registrar may direct that a fresh supporting affidavit under Order 71, rule 5 be filed by the applicant.

- (11) Where an order-in-terms has been made in the originating summons for the grant of probate or letters of administration and a party seeks to substitute the name of the administrator(s) or add in further administrator(s), an application must be made by way of a summons for the order to be revoked and re-granted. The draft amended originating summons and the amended statement in PDF format, prepared in accordance with Paragraph 13(2)(b) and (c) of these Directions, should be annexed to the summons.
- (12) Where an order-in-terms is made of the application, the party shall, within 14 days of the order or such time as may be permitted in the order of court granting leave to amend, or for the order to be revoked and regranted, as applicable, file the amended originating summons by entering the relevant amendments in the appropriate electronic template *without* attaching the amended originating summons and the amended statement in *PDF* format. In this respect, Paragraph 13(1), (2)(a), (2)(b) and (4) shall not apply. A fresh supporting affidavit under Order 71, rule 5 must be filed by the applicant together with the amended originating summons and the amended statement.
- (13) As per current practice, all summonses in respect of proceedings under Order 71, rule 5, of the Rules of Court will not be given a hearing date in the first instance. A hearing date will only be given where an order-in-terms is not granted. The hearing date will be indicated on the returned summonses.
- (14) The Court may reject any document which does not comply with the above Directions, or any other directions made by the Court.

121. Caveat searches in non-contentious probate proceedings

- (1) The Directions in this Paragraph shall apply to non-contentious probate proceedings under Order 71 of the Rules of Court.
- (2) Every applicant for a grant under Order 71 of the Rules of Court, or his solicitors, are reminded that they must comply with the requirements of Order 71, Rule 5(2A), of the Rules of Court.
- (3) Prior to filing a request to extract a grant, the applicant or his solicitors must conduct a litigation search in the record of caveats for both the Supreme Court and the Subordinate Courts to ascertain if there any caveats in force against the estate of the deceased, and the request for extraction of the grant must contain a certificate in the following terms:
“It is certified that the Probate record of caveats was searched not more than one day before the date of this request and that there are no caveats in force in respect of the estate of the deceased herein”.
- (4) For the purposes of this Direction, “grant” means a grant of any letters of representation in Singapore.