



ATTORNEY-  
GENERAL'S  
CHAMBERS

**REVIEW OF RULES  
OF COURT RELATING  
TO ARBITRATION**

**LAW REFORM AND REVISION DIVISION  
ATTORNEY-GENERAL'S CHAMBERS  
SINGAPORE**

**Report on  
Review of Rules of Court  
relating to Arbitration**

**(LRRD No. 2/2002)**

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**REPORT ON  
REVIEW OF RULES OF COURT  
RELATING TO ARBITRATION**

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**TABLE OF CONTENTS**

	<i>Page</i>
<b>REVIEW OF RULES OF COURT RELATING TO ARBITRATION</b>	
1. Introduction	1
2. Approach	1
3. Order 69 – Domestic Arbitration	2
4. Order 69A – International Arbitration	7
5. Conclusion	8
<b>Annex A</b> – Rules of Court (Amendment) Rules 2002	
<b>Annex B</b> – Table of Derivatives	
<b>Annex C</b> – Comparative Table of Provisions of UK Order 73 and Orders 69 and 69A of Singapore Rules of Court	
<b>Annex C-1</b>	
<b>Annex D</b> – Applications to the Court under the Arbitration Act 2001	
<b>Annex E</b> – Mr Warren Khoo’s proposals	



# REVIEW OF RULES OF COURT RELATING TO ARBITRATION

## 1. Introduction

1.1 Pursuant to the enactment of the Arbitration Act 2001<sup>1</sup> and the International Arbitration (Amendment) Act 2001<sup>2</sup> by Parliament on 5 Oct 2001, the Law Reform and Revision Division (LRRD) of the Attorney-General's Chambers, undertook a study of the existing Rules of Court to ascertain any amendments that may be required. The Division was assisted by Law Reform Consultant Lawrence Boo and the Rules were drafted in consultation with Mr Warren Khoo, Chairman, Singapore International Arbitration Centre (SIAC) and retired Judge of the Supreme Court.

1.2 Order 69 of the Rules of Court currently deals with domestic arbitration under the "old" Arbitration Act<sup>3</sup>. The new Arbitration Act 2001 has completely revamped the regime of domestic arbitration in Singapore by repealing the old Act. The new Act is closer to the UNCITRAL Model Law and the International Arbitration Act (IAA), and incorporates useful provisions from the UK Arbitration Act 1996<sup>4</sup>. Accordingly, Order 69 has to be amended to support the new provisions in the Arbitration Act 2001 and to weed out obsolete references to the "old" Arbitration Act.

1.3 Order 69A of the Rules of Court currently deals with international arbitration proceedings. With the enactment of the International Arbitration (Amendment) Act 2001 which contains certain consequential changes and updated provisions to supplement the International Arbitration Act as a result of the new Arbitration Act 2001, Order 69A has to be fine-tuned.

## 2. Approach

2.1 This report sets out our recommendations for proposed amendments to Orders 69 and 69A to support the new Acts. The draft amendments to the Rules of Court are set out in *Annex A* to this report. We have examined the UK Rules of the Supreme Court (Amendment) 1996<sup>5</sup> that were enacted pursuant to the UK

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<sup>1</sup> Act 37 of 2001. Passed by Parliament on 5th October 2001 and assented to by the President on 17th October 2001.

<sup>2</sup> Act 38 of 2001. Came into force on 1 Nov 2001 vide commencement notification S 538/2001.

<sup>3</sup> Cap 10, 1985 Rev Ed.

<sup>4</sup> See the Division's report, *Review of Arbitration Laws*, LRRD Report 3/2001, which may be accessed at <http://www.agc.gov.sg>.

<sup>5</sup> 1996 SI No. 3219 (L.18).

Arbitration Act 1996. We recommend the importation of some useful provisions. *Annex B* sets out for ease of reference a table of derivations of our draft amendments. *Annex C* is a comparative table of Order 73 of the UK Rules of the Supreme Court 1996 *vis a vis* the current Orders 69 and 69A of the Singapore Rules, and contains our comments on the changes recommended to our Rules in the light of the UK Rules. *Annex D* sets out a consolidated table of all the applications that may be made to the court under the Arbitration Act 2001.

2.2 The first draft of the Rules were submitted to Mr Warren Khoo, Chairman SIAC, on 9 Nov 2001 for comments. Mr Khoo replied on 21 Nov 2001 with preliminary comments of a drafting nature. Mr Khoo subsequently discussed, with Head, LRRD on 24 Nov 2001, more substantive comments on the provisions relating to “appeals” and “leave to appeal”. LRRD forwarded a revised draft on 27 Nov 2001 to Mr Khoo who then requested for more time to consider the Rules in depth. On 27 Dec 2001, Mr Khoo forwarded substantive and useful comments to the Rules. All his proposals were adopted. In particular, Mr Khoo proposed that the provisions of Order 55D of the Singapore Rules of Court dealing with appeals from the Subordinate Courts to the High Court be adopted in Order 69. Mr Khoo’s letter of 27 Dec 2001 and the enclosed annexes are reproduced at *Annex E* to this Report.

### **3. Order 69 - Domestic Arbitration**

3.1 We recommend the repeal and re-enactment of Order 69. Order 69 as proposed to be re-enacted contains provisions that are in the current Order 69, and some provisions in Order 69A and Order 73 of the UK Rules of the Supreme Court 1996 that are useful for the domestic arbitration regime. As mentioned above, provisions from Order 55D of our Rules of Court have also been adopted. Some provisions are novel and were drafted by Mr Khoo.

#### *Order 69, Rule 1*

3.2 The draft Order 69, Rule 1 provides for the interpretation of certain terms to be used throughout the Order. For ease of reference, “Act” means the Arbitration Act 2001 in Order 69.

#### *Order 69, Rule 2*

3.3 The draft Order 69, Rule 2 is largely based on the existing Order 69A, Rule 2. As the number and type of applications that may be made to the Court under the Arbitration Act 2001 have increased (see *Annex D* where a detailed and consolidated table of applications to the Court under the Arbitration Act 2001 is set out),



this Rule provides for the applications that may be made by originating motion.

3.4 These applications are:

- (a) to challenge an arbitrator under section 15(4) of the Act;
- (b) to remove an arbitrator under section 16 of the Act;
- (c) to decide on the arbitral tribunal's ruling on jurisdiction under section 21(9) of the Act;
- (d) to determine, under section 45 of the Act, any question of law arising in the course of the arbitration proceedings;
- (e) to set aside an award under section 48 of the Act; or
- (f) for leave to appeal under section 49(3)(b) of the Act.

3.5 An appeal with the agreement of all parties under section 49(3)(a) of the Act must also be made by originating motion.

3.6 Rule 2 also allows any party to request that the matter be heard in chambers or in camera.

*Order 69, Rule 3*

3.7 This Rule is based on the current Order 69, Rule 3 as well as Order 69A, Rule 3. It sets out the applications that may be made to a Judge in Chambers or the Registrar. These applications are to be made by originating summons or by summons in the action if an action is pending.

3.8 These applications are:

- (a) to reinstate discontinued proceedings under section 6(4) of the Act;
- (b) for leave to enforce interlocutory orders or directions of an arbitral tribunal under section 28(4) of the Act;
- (c) for an order in support of arbitration proceedings under section 31 of the Act;
- (d) for an extension of time under section 10 or 36 of the Act;
- (e) for an order under section 41(2) of the Act where the arbitral tribunal withholds its award for non-payment of fees;
- (f) for leave to enforce an award under section 37 or 46 of the Act;

(g) to hear an application otherwise than in open Court under section 56 of the Act; or

(h) to give directions on whether and to what extent information relating to an application heard otherwise than in open Court may be published under section 57 of the Act.

3.9 In urgent cases, the above applications may be made *ex parte*.

#### *Order 69, Rule 4*

3.10 Rule 4 deals specifically with applications under section 45 of the Act to determine any question of law arising in the course of the reference. This rule is adopted from the UK Order 73, rule 19 and the current Order 69, Rule 4. As the Act requires such applications to be made only upon agreement of the parties or with the arbitral tribunal's permission, the Rule sets out that such agreement or permission must be made or given in writing.

3.11 If the application is made with the arbitral tribunal's permission but without the agreement of the parties, the affidavits filed by the applicant must set out all evidence relied on by the applicant in support of the contention that the Court should consider the application.

3.12 We considered whether to adopt the UK Order 73, rule 19(3) which allows the Court to consider whether it will hear an application without a hearing. We were persuaded not to adopt this provision by Mr Khoo's argument that we should not deny the parties a hearing on as important a matter as a question of law. It is also incongruous to provide for a norm of no hearing for applications on a question of law when other simpler applications are decided with a hearing.

#### *Order 69, Rule 5*

3.13 As drafted by Mr Khoo, this Rule seeks to import and adopt elements of Orders 55D and 57 of our Rules of Court and the English Practice Note issued by Bingham J (as he then was) on 3 May 1985 (see Annex B Bis to Mr Khoo's letter at *Annex E*)

3.14 By way of comparison and for reference, the original draft Rule 5 is set out in a "box". This is a shorter rule but Mr Khoo is of the opinion that it is too sketchy. The original draft of Rule 5 is modified from the existing Order 69, Rules 4 and 4A. It provides for how appeals and applications for leave of the Court to appeal against an award or a decision of the Court may be made.

*Order 69, Rule 6*

3.15 Mr Khoo has rightly proposed that applications for leave to appeal on a question of law be set out in a separate Rule 6 in order to avoid confusion if the provisions for these two separate applications are merged into one rule. Accordingly, Rule 6 as drafted by Mr Khoo is similar to Rule 5. Note that Rule 6(10) provides that once leave to appeal is granted, the substantive appeal can be heard by the same Judge at the same hearing. Mr Khoo has correctly pointed out that it would not be economical for a separate hearing to be fixed when all the facts, law and arguments have been laid before the Court hearing the application for leave.

3.16 By way of comparison and for reference, our original draft Order 69, Rule 5A on the same subject is reproduced in the “box”. This draft was adopted from Order 69, Rule 4A and the UK Order 73 rule 20. It is a shorter procedure but as Mr Khoo pointed out is not in line with recent developments in our Rules in Order 55D.

*Order 69, Rule 7*

3.17 This Rule was proposed and drafted by Mr Khoo. Mr Khoo is of the opinion that a more detailed procedure for applications to set aside arbitral awards would be helpful. Similar provisions have also been inserted into the proposed Order 69A, Rule 2(4A) to (4D).

*Order 69, Rule 8*

3.18 Rule 8 provides that where the application is for leave to appeal to the Court of Appeal against a decision of the Court, the application must be made within 7 days of the decision of the Court, or where leave is refused, within 7 days of the refusal of leave.

*Order 69, Rule 9*

3.19 This Rule is adopted from Order 73, rule 21 of the UK Rules of the Supreme Court. This Rule allows applications under section 10 of the Act (for an extension of time to commence arbitral proceedings or to make an award) to include an application for a declaration that such an order is not needed.

*Order 69, Rules 10 and 15*

3.20 Rule 10, on service out of the jurisdiction of summons and notices for the purposes of this Order, and Rule 15, on the registration in the High Court of foreign awards for the purposes of enforcement in Singapore, are based on the current equivalent Rules (ie Order 69, Rules 5 and 6, respectively). Mr Khoo has rightly pointed out a defect in the drafting of the current Order 69, Rule 6

and has accordingly redrafted Rule 15. This Rule should be distinguished from Order 69A, Rule 6 on the enforcement of foreign awards recognised under the UN Convention for the Recognition and Enforcement of Foreign Arbitral Awards, New York 1958 (“New York Convention”). The New York Convention is given effect in our law through Part III of the International Arbitration Act.

*Order 69, Rule 11*

3.21 This Rule is adopted from Order 73, rule 10 of the UK Rules of the Supreme Court. It allows notice requirements under this Order to be sufficiently met by service of the relevant originating process referred to in this Order.

*Order 69, Rule 12*

3.22 This Rule is adopted from Order 69A, Rule 7 and provides for the application of certain provisions of Order 38 which deals with *subpoena duces tecum* or *ad testificandum* to apply to *subpoenas* issued by the Court to compel witnesses to attend or produce documents before an arbitral tribunal.

*Order 69, Rule 13*

3.23 This Rule is adopted from Order 69A, Rule 5. This Rule provides that an application may be made to the Court to enforce any order or direction made by the arbitral tribunal under section 28(4) of the Act, such as security for costs, discovery of documents, preservation or interim custody of any evidence or property which is the subject matter of the dispute, and taking of samples. These powers of the tribunal are found in section 28(4) of the Arbitration Act 2001. Section 28(4) is modeled after section 12 of the International Arbitration Act (Cap.143A).

*Order 69, Rule 14*

3.24 This Rule is adopted from the existing Order 69, Rule 7 and deals with an application to the Court to enforce an arbitral award.

3.25 An application under this Rule may be made *ex parte*, but the order nisi granting leave must be served on the debtor. This Rule also provides for the requirements in the affidavit supporting the application.

*Order 69, Rule 15*

3.26 See para 3.20 above.

#### **4. Order 69A - International Arbitration**

4.1 It is proposed that the existing Order 69A be fine-tuned instead of repealing and re-enacting the Order for the reason that the amendments proposed to Order 69A are not as substantial as the amendments proposed for Order 69. These amendments are consequential to the changes to the International Arbitration Act. As the regime for international arbitration largely remains unchanged, i.e. based on the UNCITRAL Model Law, these amendments are few compared to the amendments proposed for the domestic arbitration regime.

4.2 We set out briefly the amendments proposed for Order 69A as follows:

##### *Order 69A, Rule 2*

4.3 Mr Khoo's proposed Rule 7 of Order 69 relating to setting aside of awards are replicated in Rule 2(4A) to (4D). As the IAA does not allow appeals, it is not necessary to incorporate in Order 69A, Mr Khoo's proposed Order 69, Rules 5 and 6.

4.4 Order 69A, Rule 2 is proposed to be amended by inserting a provision to allow a party to appeal against a ruling of the Court under section 10 of the Act (on whether the tribunal has jurisdiction) to be made within 7 days of the Court's ruling. The words "to a single Judge in Court" in Rule 2(1) are deleted in view of Mr Khoo's observation that originating motions are always heard by a single Judge in open Court.

##### *Order 69A, Rule 3*

4.5 An amendment to Order 69A, Rule 3 is proposed to allow applications to reinstate discontinued proceedings (discontinued by the Registrar after at least 2 years from the grant of a stay of legal proceedings in favour of arbitration) to be made to a Judge in Chambers or the Registrar. This is consistent with the proposed Order 69, Rule 3(1)(a) above.

##### *Order 69A, Rule 6*

4.6 Finally, an amendment to Order 69A, Rule 6(1) is proposed to allow applications for leave to enforce an arbitral award to be made *ex parte*, as is consistent with the equivalent provision in the proposed Order 69, Rule 14(1).

## **5. Conclusion**

### *Savings provision*

5.1 In the draft amendments to the Rules of Court, we have provided for a savings provision that preserves the application of the existing Order 69 to applications before the Court arising out of arbitral proceedings to which the repealed Arbitration Act (Cap.10) applies. However, parties may choose to opt out of the old Arbitration Act regime even if arbitral proceedings commenced before the date of commencement of the Arbitration Act 2001, under section 65 of the Arbitration Act 2001. Thus, for parties who have so opted out of the repealed Act, the Rules governing their applications before the Court would be the proposed new Order 69.

### *Consultation*

5.2 This report and the draft amendments to the Rules of Court was submitted to the Singapore International Arbitration Centre for comments and input. It will thereafter be submitted to the Working Party on the Rules of Court chaired by the Honourable Justice of Appeal L.P. Thean. If the Working Party agrees, it will be eventually submitted to the Rules Committee constituted under section 80 of the Supreme Court of Judicature Act (Cap.322) for consideration and approval.

No. S000 –

SUPREME COURT OF JUDICATURE ACT  
(CHAPTER 322)  
RULES OF COURT (AMENDMENT) RULES 2002

In exercise of the powers conferred on us by section 80 of the Supreme Court of Judicature Act, section 55 of the Arbitration Act 2001 (Act 37 of 2001) and section 35 of the International Arbitration Act (Cap.143A), we, the Rules Committee, hereby make the following Rules:

**Citation and commencement**

1. These Rules may be cited as the Rules of Court (Amendment) Rules 2002 and shall come into operation on \_\_\_\_\_.

**Deletion and substitution of Order 69**

2. Order 69 of the Rules of Court (R 5) is deleted and the following Order substituted therefor:

“ORDER 69

ARBITRATION PROCEEDINGS

**Interpretation (O. 69, r. 1) (source: O. 69, r. 1<sup>1</sup>)**

1. In this Order, “Act” means the Arbitration Act 2001 (Act 37 of 2001).

**Matters for a Judge in Court (O. 69, r. 2) (source: O. 69A, r. 2)**

2.—(1) Every application to the Court —

- (a) to challenge an arbitrator under section 15(4) of the Act;
- (b) to remove an arbitrator under section 16 of the Act;
- (c) to decide on the arbitral tribunal’s ruling on jurisdiction under section 21(9) of the Act;
- (d) to determine, under section 45 of the Act, any question of law arising in the course of the arbitration proceedings;

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<sup>1</sup> Notations on source are purely for ease of reference and will be removed in final version of Rules.

(e) to set aside an award under section 48 of the Act; or  
(f) for leave to appeal under section 49(3)(b) of the Act,  
must be made by originating motion.

(2) An appeal with the agreement of all parties to the arbitration proceedings under section 49(3)(a) of the Act shall be made by originating motion.

(3) Notwithstanding paragraphs (1) and (2), the Court shall on the application of a party under section 56 of the Act hear the matter otherwise than in open Court.

(source: O. 69, r. 2(3))

**Matters for Judge in Chambers or Registrar (O. 69, r. 3)**  
**(source: O. 69A, r. 3)**

3.—(1) An application —

- (a) to reinstate discontinued proceedings under section 6(4) of the Act;
- (b) for leave to enforce interlocutory orders or directions of an arbitral tribunal under section 28(4) of the Act;
- (c) for an order in support of arbitration proceedings under section 31 of the Act;
- (d) for an extension of time under section 10 or 36 of the Act;
- (e) for an order under section 41(2) of the Act where the arbitral tribunal withholds its award for non-payment of fees;
- (f) for leave to enforce an award under section 37 or 46 of the Act;
- (g) to hear an application otherwise than in open Court under section 56 of the Act; or
- (h) to give directions on whether and to what extent information relating to an application heard otherwise than in open Court may be published under section 57 of the Act,

shall be made to a Judge in Chambers or the Registrar.

(2) Any application to which this Rule applies must, where an action is pending, be made by summons in the action, and in any other case by originating summons.



(3) Where the case is one of urgency, such application may be made *ex parte* on such terms as the Court thinks fit.

(source: O. 69A, r. 3(3))

**Preliminary question of law (O. 69, r. 4) (source: UK O. 73, r. 19, O. 69, r. 4)**

4.—(1) An application under section 45 of the Act to determine any question of law arising in the course of the arbitral proceedings must be made and notice thereof served, within 14 days after —

- (a) the agreement of all the parties to the arbitral proceedings; or
- (b) the permission of the arbitral tribunal has been obtained.

(2) For the purpose of paragraph (1), the agreement or permission must be made or given in writing.

(3) Where an application under section 45 of the Act is made without the agreement in writing of all the other parties to the arbitral proceedings but with the permission of the arbitral tribunal, the affidavits filed by the parties shall set out any evidence relied on by the parties in support of their contention that the Court should, or should not, consider the application.

(Rule 5 as proposed by Mr Warren Khoo)

**Appeals on a question of law arising out of an award (O. 69, r. 5) (source: O. 55D, English Practice Note 1985)**

5.—(1) The notice of motion by way of an appeal under section 49(3)(a) of the Act brought with the agreement of all parties to the arbitration proceedings on a question of law arising out of an award shall —

- (a) state that the appeal is being brought by such agreement;
- (b) identify the award; and
- (c) state as briefly as possible the questions of law which will be raised in the appeal.

(2) The notice of motion shall be served with —

- (a) the Appellant's Case in the form as provided in paragraph (3); and
- (b) a core bundle of documents in the form as provided in paragraph (7).

(3) The Appellant's Case shall —

- (a) contain a statement in numbered paragraphs of each ground on which it is sought to contend that the tribunal erred in law;
- (b) make references to the paragraph or passage of the award where each alleged error is to be found.

(4) There must be at least 35 clear days between service of notice of a motion and the day named in the notice for hearing the motion.

(5) Within 28 days after being served with the notice of motion, the Respondent shall file a Respondent's Case, which shall contain a statement in numbered paragraphs of the grounds on which the Respondent contends that the relevant part or parts of the award should be upheld.

(6) Where the Respondent contends that the relevant part or parts of the award should be upheld on grounds not or not fully expressed in the award, such grounds should be included in the Respondent's Case.

(7) Any statement provided under paragraphs (3) and (5) should contain specific reference to any authority relied on.

(8) The core bundle of documents shall contain —

- (a) a copy of the award;
- (b) other documents that are relevant to any question in the appeal or which are referred to in the Appellant's Case; and
- (c) an index of the documents included therein.

(9) If the Respondent intends to refer to any document in the Respondent's Case and such document is not included in the core bundle, the Respondent shall file, at the same time as he files his Case, a supplemental core bundle which shall contain such documents and an index.

(10) The appellant must at the time of filing the notice of motion deposit a sum of \$5,000, or such other sum as may be fixed from time to time by the Chief Justice, by way of security for the respondent's costs of the appeal in the Registry or with the Accountant-General and obtain a certificate in Form 114B.

(11) Order 55D, Rule 10 shall apply, with the necessary modifications, to the withdrawal of an appeal.

*Original draft rule 5 (for reference only).*

**Appeals against award (O. 69, r. 5) (source: O. 69, r. 4A)**

5.—(1) An application to appeal against an award under section 49(3) of the Act where the appeal is brought with the agreement of all the other parties to the arbitration proceedings, must be made within 28 days from the day on which the agreement is made, or within such extended time as the Court may allow.

(2) The notice of originating motion shall state, in respect of an application to appeal against an award under section 49(3) of the Act —

- (a) the award from which the appeal is brought;
- (b) whether the appeal is from the whole or part only of the award and if so, what part of the award;
- (c) the question of law arising out of the award;
- (d) concisely the grounds of the appeal; and
- (e) the appeal is brought with the agreement of all the other parties to the arbitration proceedings.

(source: O. 69, r. 4A(1))

(3) A copy of every affidavit intended to be used in the appeal, and of every consent of the other parties to the arbitration proceedings given in writing, must be served with the notice.

(source: O. 69, r. 4A(2))

(Rule 6 as proposed by Mr Warren Khoo)

**Applications for leave to appeal on a question of law arising out of an award (O. 69, r. 6) (source: O. 55D, cf O. 69, r. 5)**

6.—(1) The notice of originating motion in respect of an application for leave under section 49(3)(b) of the Act to appeal on a question of law arising out of an award shall be for an order that such leave be granted and for an order that, in the event that leave is granted, the appeal as set out in the Applicant's Proposed Case (as provided in paragraph (5)) be determined.

(2) The notice of motion shall identify the award and state as briefly as possible the questions of law which will be raised in the appeal.

(3) The notice of motion shall be served with —

- (a) the affidavit in support of the application as provided in paragraph (4);
- (b) the Applicant's Proposed Case as provided in paragraph (5);
- (c) a core bundle of documents in the form as provided in paragraph (9).

(4) The affidavit in support of the application for leave to appeal shall set out any evidence relied on by the applicant for the purpose of satisfying the Court of the matters mentioned in section 49(5) of the Act and for satisfying the Court that leave should be granted.

(5) Rule 5(3) (Appellant's Case) shall apply to the Applicant's Proposed Case as it applies to the Appellant's Case therein.

(6) Rule 5(4) shall apply to the application for leave as it applies to the appeal therein.

(7) Within 28 days after being served with the notice of motion, the respondent, if he wishes to contest the application for leave, shall file and serve an affidavit stating the grounds on which the respondent opposes the grant of leave and setting out any evidence relied on by the respondent relating to the matters mentioned in section 49(5) of the Act.

(8) Within 28 days after being served with the notice of motion, the respondent shall also file and serve the Respondent's Proposed Case.

(9) Rule 5(5) (Respondent's Case), Rule 5(7) (reference to authority), Rule 5(8) (core bundle), Rule 5(9) (supplemental core bundle), Rule 5(10) (security for costs) and Rule 5(11) (withdrawal of appeal) shall apply to an application under this Rule as they apply to an appeal under that rule.

(10) Where leave to appeal is granted by the Court, the hearing of the substantive appeal may be proceeded with forthwith on the basis of the Cases and documents filed.

Original draft rule 5A (for reference only).

**Applications for leave to appeal (O. 69, r. 5A)**

**(source: O. 69, r. 4A(1), UK O. 73, r. 20)**

**5A.—(1)** An application for leave to appeal against an award under section 49(3) of the Act must be made within 28 days —

- (a) of the date of the award; or
- (b) if there has been any arbitration process of appeal or review, of the date when the appellant was notified of the result of that process.

(2) The notice of originating motion, in respect of an application for leave to appeal, shall state —

- (a) the award from which the appeal is brought;
- (b) whether the appeal is from the whole or part only of the award and if so, what part of the award;
- (c) the question of law arising out of the award;
- (d) concisely the grounds of the appeal; and
- (e) the grounds on which the applicant alleges that leave should be granted.

(source: O. 69, r. 4A(1))

(3) The affidavit in support of the application for leave to appeal shall set out any evidence relied on by the applicant for the purpose of satisfying the Court of the matters mentioned in section 49(5) of the Act and for satisfying the Court that leave should be granted.

(source: UK O. 73 r.20(2))

(4) The affidavit filed by the respondent to the application for leave to appeal shall —

- (a) state the grounds on which the respondent opposes the grant of leave;
- (b) set out any evidence relied on by the respondent relating to the matters mentioned in section 49(5) of the Act; and
- (c) specify whether the respondent wishes to contend that the award should be upheld for reasons not expressed (or not fully expressed) in the award and, if so, state those reasons.

(source: UK O.73 r.20(3))

(5) A copy of every affidavit supporting or intended to be used in the application (where applicable), must be served with the notice.

(source: O. 69, r. 4A(2))

(6) As soon as practicable, after the filing of the affidavits, the Court shall determine the application for leave in accordance with section 49(5) of the Act.

(source: UK O74, r. 20(4))

(7) Where leave is granted by the Court in respect of an application referred to in paragraph (1), the hearing of the appeal may proceed forthwith.

(source: UK O. 73, r. 20(5))

**Application to set aside an award (O. 69, r. 7)**

**(source: Mr Warren Khoo)**

7.—(1) The notice of motion for setting aside an award under section 48 of the Act must state the grounds on which it is contended that the award should be set aside.

(2) The affidavit in support of the application must —

- (a) have exhibited to it a copy of the arbitration agreement, the award or any other document relied on by the applicant; and
- (b) set out any evidence relied on by the applicant; and
- (c) be served with the notice of motion.

(3) Within 14 days after being served with the notice of motion, the respondent, if he wishes to oppose the application, must file an affidavit stating the grounds on which the respondent opposes the application.

(4) The Court may —

- (a) determine the application summarily where the question at issue between the parties is a question of law and the facts are not disputed;
- (b) direct an issue of fact to be tried; or
- (c) make such other directions for the disposal of the application as the Court thinks fit.

**Leave to appeal to Court of Appeal (O. 69, r. 8)**

**(source: O. 69, r. 4(2) and O. 56, r. 3)**

8. An application for leave to appeal against a decision of the Court to the Court of Appeal must be made within 7 days of the decision of the Court, or, in the event leave is refused by the Court, to the Court of Appeal within 7 days of the refusal.

**Extension of time: applications under section 10 of the Act (O. 69, r. 9) (source: UK O. 73, r. 21)**

9. An application for an order under section 10 of the Act may include, as an alternative, an application for a declaration that such an order is not needed.

**Service out of jurisdiction of summons, notice, etc.**

**(O. 69, r. 10) (source: O. 69, r. 5)**

10.—(1) Service out of the jurisdiction —

(a) of an originating summons or notice of an originating motion under this Order; or

(b) of any order made on such a summons or motion as aforesaid,

is permissible with the leave of the Court provided that the arbitration to which the summons, motion or order relates is to be, is being, or has been held within the jurisdiction.

(2) An application for the grant of leave under this Rule must be supported by an affidavit stating the ground on which the application is made and showing in what place or country the person to be served is, or probably may be found; and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this Rule.

(3) Order 11, Rules 3, 4 and 6, shall apply in relation to any such summons, notice or order as is referred to in paragraph (1) as they apply in relation to a writ.

**Requirements as to notice (O. 69, r. 11)**

**(source: UK O. 73, r. 10)**

11. Where the Act requires that an application to the Court is to be made upon notice to other parties or the arbitral tribunal, notice shall be given by way of service on such parties or arbitral tribunal of the relevant originating process as required under this Order.

**Subpoena (O. 69, r. 12) (source: O. 69A, r. 7)**

12. Order 38, Rules 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 shall apply in relation to the issue of a subpoena under section 30 of the Act as it applies in relation to proceedings in the Court.

**Enforcement of interlocutory orders or directions (O. 69, r. 13) (source: O. 69A, r. 5)**

13. An application for leave to enforce an order or direction given by an arbitral tribunal under section 28(4) of the Act must be supported by an affidavit —

- (a) exhibiting a copy of the arbitration agreement and the original order or direction made by the arbitral tribunal sought to be enforced; and
- (b) stating the provisions in the Act or the applicable rules adopted in the arbitration on which the applicant relies.

**Enforcement of arbitration awards (O. 69, r. 14) (source: O. 69, r. 7)**

14.—(1) An application under section 37 or 46 of the Act for leave to enforce an award may be made *ex parte* and must be supported by affidavit —

- (a) exhibiting the arbitration agreement and the original award or, in either case, a copy thereof;
- (b) stating the name and the usual or last known place of abode or business of the applicant (referred to in this Rule as the creditor) and the person against whom it is sought to enforce the award (referred to in this Rule as the debtor), respectively; and
- (c) as the case may require, stating either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.

(2) An order giving leave must be drawn up by or on behalf of the creditor and must be served on the debtor by delivering a copy to him personally or by sending a copy to him at his usual or last known place of residence or business or in such other manner as the Court may direct.

(3) Service of the order out of the jurisdiction is permissible without leave, and Order 11, Rules 3, 4 and 6, shall apply in relation to such an order as they apply in relation to a writ.



(4) Within 14 days after service of the order or, if the order is to be served out of the jurisdiction, within such other period as the Court may fix, the debtor may apply to set aside the order and the award shall not be enforced until after the expiration of that period or, if the debtor applies within that period to set aside the order, until after the application is finally disposed of.

(5) The copy of that order served on the debtor must state the effect of paragraph (4).

(6) In relation to a body corporate, this Rule shall have effect as if for any reference to the place of residence or business of the creditor or the debtor there were substituted a reference to the registered or principal address of the body corporate.

(7) Nothing in paragraph (6) shall affect any written law which provides for the manner in which a document may be served on a body corporate.

**Registration in High Court of Commonwealth awards  
(O. 69, r. 15) (source: O. 69, r. 6 as modified by Mr Warren Khoo)**

15.—(1) Where an award is made in proceedings on an arbitration in the United Kingdom of Great Britain and Northern Ireland or other territory to which section 5 of the Reciprocal Enforcement of Commonwealth Judgments Act (Chapter 264) applies, then, if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place, Order 67, in so far as it applies to a judgment obtained in a superior court of the United Kingdom and other territory to which section 5 of that Act applies, shall apply, with the necessary modifications, to the award as it applies in relation to a judgment given by a superior court in the place where the award was made.

(2) The affidavit required by Order 67, Rule 3, must state (in addition to the other matters required by that Rule) that to the best of the information or belief of the deponent the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place, giving particulars of such information and grounds for such belief.”.

**Amendment of Order 69A**

3. Order 69A of the Rules of Court is amended —

(a) by deleting the words “to a single Judge in Court” in the 10th line of Rule 2(1);

(b) by inserting, immediately after paragraph (4) of Rule 2, the following paragraphs:

“(4A) The notice of motion must state the grounds in support of the application.

(4B) The affidavit in support of the application must —

(a) have exhibited to it a copy of the arbitration agreement, the award or any other document relied on by the applicant; and

(b) set out any evidence relied on by the applicant; and

(c) be served with the notice of motion.

(4C) Within 14 days after being served with the notice of motion, the respondent, if he wishes to oppose the application, must file an affidavit stating the grounds on which the respondent opposes the application.

(4D) The Court may determine the application summarily where the question at issue between the parties is a question of law and the facts are not disputed, or direct an issue of fact to be tried and make such other directions for the disposal of the application as the Court thinks fit.

(source: Mr Warren Khoo cf O. 69, r. 7 above)

(4E) An application for leave to appeal against a decision of the Court under section 10 of the Act must be made within 7 days of the decision of the Court.”;

(source: O. 56, r. 3)

(c) by inserting, immediately after sub-paragraph (c) of Rule 3(1), the following sub-paragraph:

“(ca) to reinstate discontinued proceedings under section 6(4) of the Act;”; and

(d) by inserting, immediately after the words “foreign award” in the 1st and 2nd lines of Rule 6(1), the words “may be made *ex parte* and”.

### **Saving provisions**

4. Where an application to the Court or a matter before the Court is brought pursuant to arbitration proceedings or an arbitration agreement to which the repealed Arbitration Act (Chapter 10, 1985 Ed.) applies, then such application or matter shall be brought before the Court in accordance with Order 69 in force immediately before



RICHARD R. MAGNUS  
*Senior District Judge.*

LAU WING YUM  
*District Judge.*

MICHAEL KHOO KAH LIP  
*Advocate and Solicitor.*

R.E. MARTIN  
*Advocate and Solicitor.*

[ ; AG/LRRD/36/2001]

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

## TABLE OF DERIVATIVES

<i>Rules of Court (Amendment) Rules 2002</i>		<i>Derivations</i>	
<i>Rule Heading</i>	<i>Order &amp; rule</i>	<i>Rules of Court (R 5)</i>	<i>UK Rules of the Supreme Court (Amendment) 1996</i>
ARBITRATION PROCEEDINGS			
Interpretation	O. 69, r. 1	O. 69, r. 1	—
Matters for a Judge in Court	O. 69, r. 2 (1)	O. 69A, r. 2, Table of applications to court, <i>see</i> Annex D to report	—
	2 (2)	O. 69, r. 2(3)	—
Matters for Judge in Chambers or Registrar	O. 69, r.3	O. 69A, r. 3	—
Preliminary question of law	O. 69, r. 4	O. 69, r. 4	O. 73, r. 19
Appeals on a question of law arising out of an award	O. 69, r. 5	O 55D (modified by Mr Warren Khoo)	English Practice Note 1985
Applications for leave to appeal on a question of law arising out of an award	O. 69, r. 6	O 55D (modified by Mr Warren Khoo)	English Practice Note 1985
Application to set aside an award	O. 69, r. 7	—	—
Leave to appeal to Court of Appeal	O. 69, r. 8	O. 56, r. 3 & O. 69, r. 4(2)	—
Extension of time: applications under section 10 of the Act	O. 69, r. 9	—	O. 73, r. 21
Service out of jurisdiction of summons, notice, etc.	O. 69, r. 10	O. 69, r. 5	—
Requirements as to notice	O. 69, r. 11	—	O. 73, r. 10
Subpoena	O. 69, r. 12	O. 69A, r. 7	—
Enforcement of interlocutory orders or directions	O. 69, r. 13	O. 69A, r. 5	—

<i>Rules of Court (Amendment) Rules 2002</i>		<i>Derivations</i>	
<i>Rule Heading</i>	<i>Order &amp; rule</i>	<i>Rules of Court (R 5)</i>	<i>UK Rules of the Supreme Court (Amendment) 1996</i>
Enforcement of arbitration awards	O. 69, r. 14	O. 69, r. 7	—
Registration in High Court of Commonwealth awards	O. 69, r. 15	O. 69, r. 6 (modified by Mr Warren Khoo)	—
INTERNATIONAL ARBITRATION			
Matters for a Judge in Court	O. 69A, r. 2(4A) to (4D)	—	—
	2(4E)	O.56, r. 3	—

COMPARATIVE TABLE OF PROVISIONS OF UK ORDER 73 AND ORDERS 69 AND 69A  
OF SINGAPORE RULES OF COURT

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p><b>Order 73, rule 1</b></p> <p><b>The overriding objective</b></p> <p>1. This Part of this Order is founded on the general principles in section 1 of the Arbitration Act and shall be construed accordingly.</p>	No equivalent	No equivalent	Section 1 of UK AA	Not necessary to adopt- no corresponding provision in AA/IAA
<p><b>Order 73, rule 2</b></p> <p><b>Meaning of arbitration application</b></p> <p>2.—(1) Subject to paragraph (2), "arbitration application" means the following —</p> <p>(a) an application to the Court under the Arbitration Act;</p> <p>(b) proceedings to determine —</p>	Use of term "application"	Use of term "application"		Not necessary to adopt – unique to UK because of the number of courts in UK dealing with arbitration matters.

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<ul style="list-style-type: none"> <li>(i) whether there is a valid arbitration agreement;</li> <li>(ii) whether an arbitration tribunal is properly constituted;</li> <li>(iii) what matters have been submitted to arbitration in accordance with an arbitration agreement;</li> <li>(c) proceedings to declare that an award made by an arbitral tribunal is not binding on a party;</li> </ul>				



<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(d) any other application affecting arbitration proceedings (whether instituted or anticipated) or to construe or affecting an arbitration agreement,</p> <p>and includes the originating process by which an arbitration application is begun.</p> <p>(2) In this Part of this Order, an arbitration application does not include proceedings to enforce an award—</p> <p>(a) to which Part III of this Order applies; or</p> <p>(b) by an action on the award.</p>				

<p><i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i></p>	<p><b>Order 73, rule 3</b></p> <p><b>Interpretation</b></p> <p>3. In this Part —</p> <p>"applicant" means the party making an arbitration application and references to respondent shall be construed accordingly;</p> <p>"the Arbitration Act" means the Arbitration Act 1996 and any expressions used in this Order and in Part I of the Arbitration Act have the same meanings in this Order as they have in that Part of the Arbitration Act.</p>	<p><i>Singapore Rules of Court Order 69</i></p>	<p><b>Interpretation (O. 69, r. 1)</b></p> <p>1. In this Order, any reference to a section shall unless it is otherwise expressly provided be construed as a reference to a section in the Arbitration Act (Chapter 10).</p>	<p><i>Singapore Rules of Court Order 69A</i></p>	<p><b>Interpretation (O. 69A, r. 1)</b></p> <p>1. In this Order, unless the context or subject-matter otherwise indicates or requires —</p> <p>"Act" means the International Arbitration Act (Chapter 143A);</p> <p>"Model Law" means the UNCITRAL Model Law on International Commercial Arbitration set out in the First Schedule to the Act and as modified by the Act.</p>	<p><i>Parent provision that rule is based on</i></p>		<p><i>LRRD's Comments or recommendations</i></p>	<p>Not necessary to adopt – our own definitions are sufficient</p>
<p><b>Order 73, rule 4</b></p> <p><b>Form and content of arbitration application</b></p> <p>4.—(1) An arbitration application must be in Form No. 8A in Appendix A.</p>		<p>No general provision on applications</p>		<p>No general provision on applications</p>		<p>See attached Annex 1 on applications under the UK AA to which the UK Rule relates. Annex 1 also sets out the AA/IAA equivalent of the UK</p>		<p>Not necessary to adopt- unique to UK because of the number of courts in UK dealing with arbitration matters</p>	

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(2) Every arbitration application must —</p> <p>(a) include a concise statement of</p> <ul style="list-style-type: none"> <li>(i) the remedy or relief claimed, and</li> <li>(ii) (where appropriate) the questions on which the applicant seeks the determination or direction of the Court;</li> </ul> <p>(b) give details of any arbitration award that is challenged by the applicant, showing the grounds for any such challenge;</p> <p>(c) where the applicant claims an order for costs, identify the respondent against whom the claim is made,</p> <p>(d) (where appropriate) specify the section of the Arbitration</p>			<p>provisions tabulated.</p>	

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>Act under which the application is brought; and</p> <p>(e) show that any statutory requirements have been satisfied including those set out, by way of example, in the Table Below.</p> <p>(3) The arbitration application must also state</p> <p>(a) whether it is made <i>ex parte</i> or on notice and, if made on notice, must give the names and addresses of the persons to whom notice is to be given, stating their role in the arbitration and whether they are made respondents to the application;</p> <p>(b) whether (having regard to rule 1.5) the application will be heard in open Court or in chambers; and</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(c) the date and time when the application will be heard or that such date has not yet been fixed.</p> <p>(4) Every arbitration application which is used as an originating process shall be indorsed with the applicant's address for service in accordance with Order 6, rule 5.</p>				
<p><b>Order 73, rules 5, 9 and 15</b></p> <p><b>Issue of application</b></p> <p>5.—(1) This rule is to be read with the provisions of the High Court and County Courts (Allocation of Arbitration Proceedings) Order 1996<sup>59</sup> which allocates proceedings under the Arbitration Act to the High Court and the county courts and specifies proceedings which may be commenced or taken only in the</p>	<p><b>Matters for a Judge in Court (O. 69, r. 2)</b></p> <p>2.—(1) Every application to the Court —</p> <p>(a) to remit an award under section 16;</p> <p>(b) to remove an arbitrator or umpire under section 17 (1);</p> <p>(c) to set aside an award under section 17 (2);</p>	<p><b>Matters for a Judge in Court (O. 69A, r. 2)</b></p> <p>2.—(1) Every application to the Court —</p> <p>(a) to decide on the challenge of an arbitrator under Article 13 (3) of the Model Law;</p> <p>(b) to decide on the termination of the mandate of an arbitrator under Article 14 (1) of the Model Law;</p>	<p>It is noted that Order 73, rule 15 provides that appeals and determination of preliminary points of law under section 45 and 69 of the UKAA is to be heard in open court save for certain limited issues. Thus, our existing Orders 69 and 69A on the</p>	<p>To keep approach of classifying applications before High Court or Judge/Registrar in Chambers as it is consistent with Rules of Court in general.</p> <p>The UK Order 73,</p>

<b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b>	<b>Singapore Rules of Court Order 69</b>	<b>Singapore Rules of Court Order 69A</b>	<b>Parent provision that rule is based on</b>	<b>LRRD's Comments or recommendations</b>
<p>High Court or in a county court.</p> <p>(2) This rule does not apply to applications under section 9 of the Arbitration Act to stay legal proceedings.</p> <p>(3) Any other arbitration application may be made —</p> <p>(a) in the Royal Courts of Justice, in which case it shall be issued out of the Admiralty and Commercial Registry;</p> <p>(b) in a district registry in which there is a mercantile list, in which case it shall be entered into that list.</p> <p>(4) Except where an arbitration application is issued out of the Admiralty and Commercial Registry, the Judge in charge of the list shall</p> <p>(a) as soon as practicable after the issue of the application, and</p>	<p>(d) for leave to appeal under section 28 (2); or</p> <p>(e) to determine, under section 29, any question of law arising in the course of a reference,</p> <p>must be made by originating motion to a single Judge in Court.</p> <p>(2) Any appeal to the Court under section 28 (2) must be made by originating motion to a single Judge in Court and notice thereof may be included in the application for leave to appeal, where leave is required.</p> <p>(3) An application for a declaration that an award made by an arbitrator or umpire is not binding on a party to the award on the ground that it was made without jurisdiction may be made by originating motion to a single Judge in Court, but the</p>	<p>(c) to appeal against the ruling of the arbitral tribunal under Article 16 (3) of the Model Law; or</p> <p>(d) to set aside an award under section 24 of the Act or Article 34 (2) of the Model Law,</p> <p>must be made by originating motion to a single Judge in Court.</p> <p>(2) Notwithstanding paragraph (1), the Court shall on the application of a party under section 22 of the Act hear the matter otherwise than in open Court.</p> <p>(3) An application under paragraph (1) (a), (b) or (c) shall be made within 30 days from the date of receipt by the applicant of the arbitral tribunal's decision or ruling.</p>	<p>jurisdiction of a judge in Chambers is wider.</p>	<p>rule 5 sets out how different arbitration applications may be made before different courts. This position is not similar to ours as stay of proceedings applications may be made before any court in which the proceedings arose.</p>

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(b) in consultation with the Judge in charge of the commercial list,</p> <p>consider whether the application should be transferred to the Commercial Court or to any another list.</p> <p>(5) Where an arbitration application is issued out of the Admiralty and Commercial Registry, the Judge in charge of the commercial list may at any time after the issue of the application transfer the application to another list, court or Division of the High Court, to which he has power to transfer proceedings.</p> <p>(6) In considering whether to transfer an application, the Judges referred to in paragraphs (4) and (5) shall have regard to the criteria specified in Article 4(4) of the High Court and County Courts (Allocation of</p>	<p>foregoing provision shall not be taken as affecting the Judge's power to refuse to make such a declaration in proceedings begun by motion.</p> <p><b>Matters for Judge in Chambers or Registrar (O. 69, r. 3)</b></p> <p><b>3.</b>—(1) Subject to Rule 2, the jurisdiction of the High Court or a Judge thereof under the Act may be exercised by a Judge in Chambers or the Registrar.</p> <p>(2) Any application under section 28 (5) (including any application for leave), or under section 32, must be made to a Judge in Chambers.</p> <p>(3) Any application to which this Rule applies must, where an action is pending, be made by summons in the action, and in any other case by originating summons.</p>	<p>(4) An application under paragraph (1) (a) shall be made within 3 months from the date of receipt by the applicant of the award or the corrected award.</p> <p>(5) For the purpose of this Rule, the date of receipt of any decision, ruling, award or corrected award shall be determined in accordance with Article 3 of the Model Law.</p> <p><b>Matters for a Judge in Chambers (O. 69A, r. 3)</b></p> <p><b>3.</b>—(1) Every application or request to the Court —</p> <p>(a) to hear an application otherwise than in open Court under section 22 of the Act;</p> <p>(b) for leave to enforce interlocutory orders or directions of an arbitral tribunal under section 12 (5)</p>		

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>Arbitration Proceedings) Order 1996<sup>[7]</sup> and the application shall be transferred if those Judges so decide.</p> <p>(7) In this rule "Judge in charge of the list" means —</p> <p>(a) a Commercial Judge, where the arbitration application is issued out of the Admiralty and Commercial Registry;</p> <p>(b) a Circuit mercantile Judge, where the arbitration application is entered in a mercantile list;</p> <p>(c) a Judge of the business list in the Central London County Court, where the arbitration application is commenced in the business list established at the Central London County Court by Order 48C of the County Court Rules 1981<sup>[8]</sup>,</p> <p>but nothing in this rule shall be</p>	<p>(4) Where an application is made under section 28 (5) (including any application for leave), the summons must be served on the arbitrator or umpire and on any other party to the reference.</p> <p><b>Time and special provisions for applications and appeals (O. 69, r. 4)</b></p> <p><b>4.—</b>(1) An application to the Court —</p> <p>(a) to remit an award under section 16;</p> <p>(b) to set aside an award under section 17 (2) or otherwise;</p> <p>or</p> <p>(c) to direct an arbitrator or umpire to state the reasons for an award under section 28 (5),</p> <p>must be made at any time within 21</p>	<p>of the Act;</p> <p>(c) for interlocutory orders or directions under section 12 (6) of the Act;</p> <p>(d) for leave to enforce an award under section 18 or 19 of the Act; or</p> <p>(e) for leave to enforce a foreign award under section 29 of the Act,</p> <p>shall be made to a Judge in Chambers or the Registrar.</p> <p>(2) Any application to which this Rule applies must, where an action is pending, be made by summons in the action, and in any other case by originating summons.</p> <p>(3) Where the case is one of urgency such application may be made ex parte on such terms as the Court thinks fit.</p>		



<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>construed as preventing the powers of a Commercial Judge from being exercised by any judge of the High Court.</p> <p><b>Affidavit in support of arbitration application</b></p> <p>9.—(1) The applicant shall file an affidavit in support of the arbitration application which sets out the evidence on which he intends to rely and a copy of every affidavit so filed must be served with the arbitration application.</p> <p>(2) Where an arbitration application is made with the written agreement of all the other parties to the arbitral proceedings or with the permission of the arbitral tribunal, the affidavit in support must —</p> <p>(a) give details of the agreement or, as the case may be, permission; and</p>	<p>days after the award has been made and published to the parties.</p> <p>(2) In the case of an appeal to the Court under section 28 (2), the notice must be served, and the appeal entered, within 21 days after the award has been made and published to the parties or when the appeal is brought with the consent of the other parties to the arbitration agreement, within 21 days from the day on which the consent is given, or within such extended time as the Court may allow:</p> <p>Provided that, where reasons material to the appeal are given on a date subsequent to the publication of the award, the period of 21 days shall run from the date on which the reasons are given.</p> <p>(3) An application under section 29</p>			

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(b) exhibit copies of any document which evidences that agreement or permission.</p> <p><b>Hearing of applications: open Court or in chambers</b></p> <p><b>15.</b>—(1) The Court may order that any arbitration application be heard either in open court or in chambers.</p> <p>(2) Subject to any order made under paragraph (1) and to paragraph (3), all arbitration applications shall be heard in chambers.</p> <p>(3) Subject to any order made under paragraph (1), the determination of a preliminary point of law under section 45 of the Arbitration Act or an appeal under section 69 on a question of law arising out of an award shall be heard in open court.</p> <p>(4) Paragraph (3) shall not apply to—</p>	<p>(1) to determine any question of law arising in the course of a reference must be made and notice thereof served, within 14 days after the arbitrator or umpire has consented to the application being made, or the other parties have so consented.</p> <p>(4) For the purpose of paragraph (3), the consent must be given in writing.</p> <p>(5) In every application to which this Rule applies, the notice of originating motion or the originating summons, as the case may be, must state the grounds of the application and, where the application is founded on evidence by affidavit, or is made with the consent of the arbitrator or umpire or of the other parties, a copy of every affidavit intended to be used, or of every consent given in</p>			

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(a) the preliminary question whether the Court is satisfied of the matters set out in section 45(2)(b); or</p> <p>(b) an application for leave to appeal under section 69(2)(b).</p>	<p>writings, as the case may be, must be served with that notice or summons.</p> <p><b>Appeals (O. 69, r. 4A)</b></p> <p><b>4A.—</b>(1) A notice of originating motion by way of appeal must state —</p> <p>(a) the award from which the appeal is brought;</p> <p>(b) whether the appeal is from the whole or part only of the award and if so, what part of the award;</p> <p>(c) the question of law arising out of the award;</p> <p>(d) concisely the grounds of the appeal; and</p> <p>(e) whether the appeal is brought with the consent of the parties to the arbitration</p>			

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
	<p>agreement.</p> <p>(2) A copy of every affidavit intended to be used in the appeal, and of every consent given in writing (where applicable), must be served with the notice.</p>			
<p><b>Order 73, rule 6</b></p> <p><b>Stay of legal proceedings</b></p> <p>6.—(1) An application under section 9 of the Arbitration Act to stay legal proceedings shall be served —</p> <p>(a) in accordance with Order 65, rule 5, on the party bringing the relevant legal proceedings and on any other party to those proceedings who has given an address for service; and</p> <p>(b) on any party to those legal proceedings who has not given an address for service, by</p>	<p>No equivalent</p>	<p>No equivalent</p>	<p>UK Order 73, rule (6) based on section 9 of the UKAA.</p>	<p>Order 73, rule 6(2) is substantive in nature. The practice in Singapore has been for stay applications to be made in the civil proceedings itself.</p> <p>Service of documents would be determined under general Rules of Court provisions. Order</p>

<b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b>	<b>Singapore Rules of Court Order 69</b>	<b>Singapore Rules of Court Order 69A</b>	<b>Parent provision that rule is based on</b>	<b>LRRD's Comments or recommendations</b>
<p>sending to him (whether or not he is within the jurisdiction) at his last known address or at a place where it is likely to come to his attention, a copy of the application for his information.</p> <p>(2) Where a question arises as to whether an arbitration agreement has been concluded or as to whether the dispute which is the subject-matter of the proceedings falls within the terms of such an agreement, the Court may determine that question or give directions for its determination, in which case it may order the proceedings to be stayed pending the determination of that question.</p>				73, rule 6(1) is not necessary.
<p><b>Order 73, rules 7, 8, 11 and 12</b>  <b>Service of arbitration application</b>  7.—(1) Subject to paragraphs (2) and</p>	<p><b>Service out of jurisdiction of summons, notice, etc. (O. 69, r. 5)</b>  5.—(1) Service out of the</p>	<p><b>Service out of jurisdiction of originating process (O. 69A, r. 4)</b>  4.—(1) Service out of the</p>		Not necessary to adopt- our service provisions are centralised in Rules

<b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b>	<b>Singapore Rules of Court Order 69</b>	<b>Singapore Rules of Court Order 69A</b>	<b>Parent provision that rule is based on</b>	<b>LRRD's Comments or recommendations</b>
<p>(4) below and to rules 6(1) and 8, an arbitration application shall be served in accordance with Order 10.</p> <p>(2) Where the Court is satisfied on an <i>ex parte</i> application that</p> <p>(a) arbitral proceedings are taking place, or an arbitration award has been made, within the jurisdiction; and</p> <p>(b) an arbitration application is being made in connection with those arbitral proceedings or being brought to challenge the award or to appeal on a question of law arising out of the award; and</p> <p>(c) the respondent to the arbitration application (not being an individual residing or carrying on business within the jurisdiction or a body corporate having a registered</p>	<p>jurisdiction —</p> <p>(a) of an originating summons or notice of an originating motion under the Arbitration Act (Chapter 10); or</p> <p>(b) of any order made on such a summons or motion as aforesaid,</p> <p>is permissible with the leave of the Court provided that the arbitration to which the summons, motion or order relates is to be, is being, or has been held within the jurisdiction.</p> <p>(2) An application for the grant of leave under this Rule must be supported by an affidavit stating what place or country the person to be served is, or probably may be found; and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this Rule.</p>	<p>jurisdiction of the notice of an originating motion or the originating summons or of any order made on such motion or summons under this Order is permissible with leave of the Court whether or not the arbitration was held or the award was made within the jurisdiction.</p> <p>(2) An application for the grant of leave under this Rule must be supported by an affidavit stating the ground on which the application is made and showing in what place or country the person to be served is, or probably may be found; and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this Rule.</p> <p>(3) Order 11, Rules 3, 4 and 6 shall</p>		<p>of Court Order 10, rule 5, Orders 11, 32 and 62.</p>

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>office or a place of business within the jurisdiction)</p> <p>(i) is or was represented in the arbitral proceedings by a solicitor or other agent within the jurisdiction who was authorised to receive service of any notice or other document served for the purposes of those proceedings; and</p> <p>(ii) has not (at the time when the arbitration application is made) determined the authority of that solicitor or agent,</p> <p>the Court may authorise service of the arbitration application to be effected on the solicitor or agent instead of the respondent.</p> <p>(3) An order made under paragraph</p>	<p>granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this Rule.</p> <p>(3) Order 11, Rules 3, 4 and 6, shall apply in relation to any such summons, notice or order as is referred to in paragraph (1) as they apply in relation to a writ.</p>	<p>apply in relation to any such summons, notice or order as is referred to in paragraph (1) as they apply in relation to a writ.</p>		

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(2) must limit a time within which the respondent must acknowledge service and a copy of the order and of the arbitration application must be sent by post to the respondent at his address out of the jurisdiction.</p> <p>(4) Where an arbitration application has been issued, any subsequent arbitration application made by the respondent and arising out of the same arbitration or arbitration agreement may be served on the applicant in accordance with Order 65, rule 5 (ordinary service: how effected) and similarly any subsequent arbitration application by any party may be served at the address for service given in the first arbitration application or in the acknowledgement of service.</p> <p>(5) For the purposes of service, an arbitration application is valid in the first instance</p>				



<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(a) where service is to be effected out of the jurisdiction, for such period as the Court may fix;</p> <p>(b) in any other case, for one month,</p> <p>beginning with the date of its issue and Order 6, rule 8 shall apply with the substitution, in paragraphs (2) and (2A), of "2 months" for "4 months" and "6 months" for "12 months".</p> <p><b>Service out of the jurisdiction</b></p> <p><b>8.</b>—(1) Service out of the jurisdiction of an arbitration application is permissible with the leave of the Court if the arbitration application falls into one of the categories mentioned in the following table and satisfies the conditions specified.</p> <p>(2) An application for the grant of</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>leave under this rule must be supported by an affidavit</p> <p>(a) stating the grounds on which the application is made; and</p> <p>(b) showing in what place or country the person to be served is, or probably may be found,</p> <p>and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this rule.</p> <p>(3) Order 11, rules 5 to 8 shall apply to the service of an arbitration application under this rule as they apply to the service of a writ.</p> <p>(4) Service out of the jurisdiction of any order made on an arbitration application is permissible with the leave of the Court.</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p><b>Acknowledgement of service by respondent</b></p> <p><b>11.</b>—(1) Service of an arbitration application may be acknowledged by completing an acknowledgement of service in Form No. 15A in Appendix A in accordance with Order 12 (as that Order applies by virtue of rule 9 of that Order).</p> <p>(2) A respondent who</p> <p>(a) fails to acknowledge service within the time limited for so doing; or</p> <p>(b) having indicated on his acknowledgement of service that he does not intend to contest the arbitration application, then wishes to do so,</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>shall not be entitled to contest the application without the leave of the Court.</p> <p>(3) The Court will not give notice of the date on which an arbitration application will be heard to a respondent who has failed to acknowledge service.</p> <p>(4) The failure of a respondent to give notice of intention to contest the arbitration application or to acknowledge service shall not affect the applicant's duty to satisfy the Court that the order applied for should be made.</p> <p>(5) This rule does not apply to —</p> <p>(a) applications under section 9 of the Arbitration Act to stay legal proceedings; or</p> <p>(b) subsequent arbitration applications.</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p><b>Acknowledgement of service etc. by arbitrator</b></p> <p><b>12.—</b>(1) An arbitrator who is sent a copy of an arbitration application for his information may make</p> <p>(a) a request <i>ex parte</i> in writing to be made a respondent; or</p> <p>(b) representations to the Court under this rule,</p> <p>and, where an arbitrator is ordered to be made a respondent, he shall acknowledge service within 14 days of the making of that order.</p> <p>(2) An arbitrator who wishes to make representations to the Court under this rule may file an affidavit or make representations in writing to the Court.</p> <p>(3) The arbitrator shall as soon as is practicable send a copy of any document filed or made under</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>paragraph (2) to all the parties to the arbitration application.</p> <p>(4) Nothing in this rule shall require the Court to admit a document filed or made under paragraph (2) and the weight to be given to any such document shall be a matter for the Court.</p>				
<p><b>Order 73, rule 10</b></p> <p><b>Requirements as to notice</b></p> <p><b>10.</b>—(1) Where the Arbitration Act requires that an application to the Court is to be made upon notice to other parties notice shall be given by making those parties respondents to the application and serving on them the arbitration application and any affidavit in support.</p> <p>(2) Where an arbitration application is made under section 24, 28 or 56 of the Arbitration Act, the arbitrators or, in the case of an application</p>	No equivalent	No equivalent	<p>UK Order is based on sections 24, 28 and 56 of the UK AA</p> <p>Section 24 (power of court to remove an arbitrator) is similar to our section 16 (but our section 16 is taken from Model Law)</p> <p>Section 28 (party</p>	<p>Order 73, rule 10(1) may be adopted with modifications</p> <p>Modification is to be made to link “notice” to “service” instead of using term “making as respondent” so that Order 73, rule 10(1) makes it clear that service of the</p>

<p><b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b></p> <p>under section 24, the arbitrator concerned shall be made respondents to the application and notice shall be given by serving on them the arbitration application and any affidavit in support.</p> <p>(3) In cases where paragraph (2) does not apply, an applicant shall be taken as having complied with any requirement to give notice to the arbitrator if he sends a copy of the arbitration application to the arbitrator for his information at his last known address with a copy of any affidavit in support.</p> <p>(4) This rule does not apply to applications under section 9 of the Arbitration Act to stay legal proceedings.</p>	<p><b>Singapore Rules of Court Order 69</b></p>	<p><b>Singapore Rules of Court Order 69A</b></p>	<p><b>Parent provision that rule is based on</b></p> <p>may apply to court to consider and adjust arbitrators' fees)- we have no equivalent, as our section 40 relating to fees of arbitrator only deals with taxation.</p> <p>Section 56 (party may apply to court if tribunal withholds award in event of non-payment of fees) – section 41 of our AA is the equivalent.</p>	<p><b>LRRD's Comments or recommendations</b></p> <p>originating process constitutes notice under section 53 of the AA.</p>
<p><b>Order 73, rules 13 and 14 Automatic directions</b></p> <p><b>13.</b>—(1) Unless the Court otherwise</p>	<p>No equivalent</p>	<p><b>Subpoena (O. 69A, r. 7)</b></p> <p>7. Order 38, Rules 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 shall</p>		<p>In view of the necessity to have flexibility, the UK procedure may be</p>

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>directs, the following directions shall take effect automatically.</p> <p>(2) A respondent who wishes to put evidence before the Court in response to any affidavit filed in support of an arbitration application shall serve his affidavit on the applicant before the expiration of 21 days after the time limited for acknowledging service or, in a case where a respondent is not required to file an acknowledgement of service, within 21 days after service of the arbitration application.</p> <p>(3) An applicant who wishes to put evidence before the Court in response to an affidavit lodged under paragraph (2) shall serve his affidavit on the respondent within 7 days after service of the respondent's affidavit.</p> <p>(4) Where a date has not been fixed for the hearing of the arbitration application, the applicant shall, and</p>		<p>apply in relation to the issue of a subpoena under section 13 of the Act as it applies in relation to proceedings in the Court.</p> <p><b>Taking of evidence (O. 69A, r. 8)</b></p> <p>8. Order 39 shall apply in relation to the taking of evidence for arbitration proceedings under Article 27 of the Model Law as it applies for the purpose of proceedings in the Court.</p> <p>(Order 39 deals with depositions, oral evidence, swearing in of witnesses etc)</p>		<p>too rigid. Not necessary to adopt- should leave to court to give appropriate directions. Under Order 25, rule 8, automatic directions apply only to actions for personal injuries and actions arising out of accidents on land due to collision.</p> <p>Those applications are different from applications under the AA which are more varied in nature and not so susceptible to</p>



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<p>the respondent may, not later than 14 days after the expiration of the time limit specified in paragraph (2), apply to the Court for such a date to be fixed.</p> <p>(5) Agreed, indexed and paginated bundles of all the evidence and other documents to be used at the hearing shall be prepared by the applicant (with the co-operation of the respondent).</p> <p>(6) Not later than 5 clear days before the hearing date estimates for the length of the hearing shall be lodged with the Court together with a complete set of the documents to be used.</p> <p>(7) Not later than 2 days before the hearing date the applicant shall lodge with the Court—</p> <p>(a) a chronology of the relevant events cross-referenced to the</p>				<p>standard procedures.</p>

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>bundle of documents;</p> <p>(b) (where necessary) a list of the persons involved;</p> <p>(c) a skeleton argument which lists succinctly —</p> <ul style="list-style-type: none"> <li>(i) the issues which arise for decision,</li> <li>(ii) the grounds of relief (or opposing relief) to be relied upon,</li> <li>(iii) the submissions of fact to be made with the references to the evidence, and</li> <li>(iv) the submissions of law with references to the relevant authorities,</li> </ul> <p>and shall send a copy to the respondent.</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(8) Not later than the day before the hearing date the respondent shall lodge with the Court a skeleton argument which lists succinctly</p> <ul style="list-style-type: none"> <li>(a) the issues which arise for decision,</li> <li>(b) the grounds of relief (or opposing relief) to be relied upon,</li> <li>(c) the submissions of fact to be made with the references to the evidence, and</li> <li>(d) the submissions of law with references to the relevant authorities,</li> </ul> <p>and shall send a copy to the applicant.</p> <p><b>Directions by the Court</b></p> <p><b>14.—(1)</b> The Court may give such directions as to the conduct of the</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>arbitration application as it thinks best adapted to secure the just, expeditious and economical disposal thereof.</p> <p>(2) Where the Court considers that there is or may be a dispute as to fact and that the just, expeditious and economical disposal of the application can best be secured by hearing the application on oral evidence or mainly on oral evidence, it may, if it thinks fit, order that no further evidence shall be filed and that the application shall be heard on oral evidence or partly on oral evidence and partly on affidavit evidence, with or without cross-examination of any of the deponents, as it may direct.</p> <p>(3) The Court may give directions as to the filing of evidence and as to the attendance of deponents for cross-examination and any directions</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>which it could give in proceedings begun by writ.</p> <p>(4) If the applicant makes default in complying with these rules or with any order or direction of the Court as to the conduct of the application, or if the Court is satisfied that the applicant is not prosecuting the application with due despatch, the Court may order the application to be dismissed or may make such other order as may be just.</p> <p>(5) If the respondent fails to comply with these rules or with any order or direction given by the Court in relation to the evidence to be relied on, or the submissions to be made by that respondent, the Court may, if it thinks fit, hear and determine the application without having regard to that evidence or those submissions.</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p><b>Order 73, rule 16</b></p> <p><b>Securing the attendance of witnesses</b></p> <p>6.—(1) A party to arbitral proceedings being conducted in England and Wales who wishes to rely on section 43 of the Arbitration Act to secure the attendance of a witness may apply for a writ of subpoena ad testificandum or of subpoena duces tecum to the Admiralty and Commercial Registry or, if the attendance of the witness is required within the district of a district registry, at that registry at the option of the party.</p> <p>(2) A writ of subpoena shall not be issued until the applicant lodges an affidavit which shows that the application is made with the permission of the tribunal or the agreement of the other parties.</p>	<p>No equivalent</p>	<p><b>Subpoena (O. 69A, r. 7)</b></p> <p>7. Order 38, Rules 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 shall apply in relation to the issue of a subpoena under section 13 of the Act as it applies in relation to proceedings in the Court.</p> <p>(Order 38, rule 14 etc deals with form of writ of subpoenas, service etc)</p> <p>(section 13 IAA deals with any party may take out writ of subpoena duces tecum and ad testificandum)</p>		<p>To retain our Order 69A formulation for IAA and as for AA, we can duplicate Order 69A, rule 7. UK provision not applicable.</p>

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p><b>Order 73, rule 17</b>  <b>Security for costs</b>            17. Subject to section 70(6) of the Arbitration Act, the Court may order any applicant (including an applicant who has been granted leave to appeal) to provide security for costs of any arbitration application.</p>	No equivalent	No equivalent	Section 70(6) UK AA	Not necessary to adopt- already provided for in section 50(6), AA.
<p><b>Order 73, rule 18</b>  <b>Powers exercisable in support of arbitral proceedings</b>            18.—(1) Where the case is one of urgency, an application for an order under section 44 of the Arbitration Act (Court powers exercisable in support of arbitral proceedings) may be made <i>ex parte</i> on affidavit (before the issue of an arbitration application) and the affidavit shall (in addition to dealing with the matters required to be dealt with by</p>	No equivalent	No equivalent	Section 44 of the UKAA.	Although section 31 of our AA is the equivalent of section 44 of the UK Act, we have, in consultation with SIAC, drafted our own provision on how an application under section 31 of the AA may be made. See Order 69, rule 3 in Annex A.

<b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b>	<b>Singapore Rules of Court Order 69</b>	<b>Singapore Rules of Court Order 69A</b>	<b>Parent provision that rule is based on</b>	<b>LRRD's Comments or recommendations</b>
<p>rule 9) state the reasons</p> <p>(a) why the application is made <i>ex parte</i>; and</p> <p>(b) (where the application is made without the permission of the arbitral tribunal or the agreement of the other parties to the arbitral proceedings) why it was not practicable to obtain that permission or agreement, and</p> <p>(c) why the deponent believes that the condition in section 44(5) is satisfied.</p> <p>(2) Where the case is not one of urgency, an application for an order under section 44 of the Arbitration Act shall be made on notice and the affidavit in support shall (in addition to dealing with the matters required to be dealt with by rule 9 and paragraph (1)(c) above) state that the</p>				



<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>application is made with the permission of the tribunal or the written agreement of the other parties to the arbitral proceedings.</p> <p>(3) Where an application for an order under section 44 of the Arbitration Act is made before the issue of an arbitration application, any order made by the Court may be granted on terms providing for the issue of an application and such other terms, if any, as the Court thinks fit.</p>	No equivalent	No equivalent		
<p><b>Order 73, rule 19</b></p> <p><b>Applications under sections 32 and 45 of the Arbitration Act</b></p> <p><b>19.—(1)</b> This rule applies to the following arbitration applications:—</p> <p>(a) applications for the determination of a question as to the substantive jurisdiction</p>	No equivalent	No equivalent	<p>Sections 32 and 45 of the UKAA. We do not have an equivalent of section 32 UK AA (determination of a preliminary point of jurisdiction).</p>	<p>To adopt Order 73, rule 19(2) and (3) in respect of application under section 45 of the AA on determination by the court as a preliminary point</p>

<p><b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b></p> <p>of the arbitral tribunal under section 32 of the Arbitration Act; and</p> <p>(b) applications for the determination of a preliminary point of law under section 45 of the Arbitration Act.</p> <p>(2) Where an application is made without the agreement in writing of all the other parties to the arbitral proceedings but with the permission of the arbitral tribunal, the affidavits filed by the parties shall set out any evidence relied on by the parties in support of their contention that the Court should, or should not, consider the application.</p> <p>(3) As soon as practicable after the affidavits are lodged, the Court shall decide whether or not it should consider the application and, unless</p>	<p><b>Singapore Rules of Court Order 69</b></p>	<p><b>Singapore Rules of Court Order 69A</b></p>	<p><b>Parent provision that rule is based on</b></p> <p>But we have the equivalent of section 45 UKAA in our section 45 AA.</p>	<p><b>LRRD's Comments or recommendations</b></p> <p>of law.</p>
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<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>the Court otherwise directs, shall so decide without a hearing.</p> <p><b>Order 73, rule 20</b>  <b>Applications for leave to appeal</b>  <b>20.</b>—(1) Where the applicant seeks leave to appeal to the Court on a question of law arising out of an arbitration award, the arbitration application shall identify the question of law and state the grounds on which the applicant alleges that leave should be granted.</p> <p>(2) The affidavit in support of the application shall set out any evidence relied on by the applicant for the purpose of satisfying the Court of the matters mentioned in section 69(3) of the Arbitration Act and for satisfying the Court that leave should be granted.</p>	<p>No equivalent</p>	<p>No equivalent</p>	<p>Section 69 UKAA.  Section 69 UKAA is the equivalent of our section 50 AA.</p>	<p>Adopted SIAC draft of Order 69, rule 6 on application for leave to appeal.</p>

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(3) The affidavit lodged by the respondent to the application shall</p> <p>(a) state the grounds on which the respondent opposes the grant of leave;</p> <p>(b) set out any evidence relied on by him relating to the matters mentioned in section 69(3) of the Arbitration Act, and</p> <p>(c) specify whether the respondent wishes to contend that the award should be upheld for reasons not expressed (or not fully expressed) in the award and, if so, state those reasons.</p> <p>(4) As soon as practicable after the lodging of the affidavits, the Court shall determine the application for leave in accordance with section 69(5) of the Arbitration Act.</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
(5) Where leave is granted, a date shall be fixed for the hearing of the appeal.				
<b>Order 73, rule 21</b> <b>Extension of time: applications under section 12</b> 21. An application for an order under section 12 of the Arbitration Act may include as an alternative an application for a declaration that such an order is not needed.	No equivalent	No equivalent	Section 12 UKAA. This section is adopted in our section 10 AA (power of court to extend time for commencement of arbitration proceedings)	To adopt UK provision to apply to applications for extension of time under section 10. See Order 69, rule 10 at Annex A.
<b>Order 73, rule 22</b> <b>Time limits for challenges to or appeals from awards</b> 22.—(1) An applicant shall not be taken as having complied with the time limit of 28 days referred to in section 70(3) of the Arbitration Act	No equivalent	No equivalent	UKAA Sections 67 and 68 (challenging an award for substantive jurisdiction or procedural irregularity). We have not adopted	Not applicable to our AA/IAA.

<b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b>	<b>Singapore Rules of Court Order 69</b>	<b>Singapore Rules of Court Order 69A</b>	<b>Parent provision that rule is based on</b>	<b>LRRD's Comments or recommendations</b>
<p>unless the arbitration application has been issued, and all the affidavits in support have been sworn and filed, by the expiry of that time limit.</p> <p>(2) An applicant who wishes</p> <p>(a) to challenge an award under section 67 or 68 of the Arbitration Act; or</p> <p>(b) to appeal under section 69 on a question of law arising out of an award,</p> <p>may, where the time limit of 28 days has not yet expired, apply <i>ex parte</i> on affidavits for an order extending that time limit.</p> <p>(3) In any case where an applicant seeks to challenge an award under section 67 or 68 of the Arbitration Act or to appeal under section 69 after the time limit of 28 days has already expired, the following</p>			<p>those provisions.</p>	

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>provisions shall apply:</p> <p>(a) the applicant must state in his arbitration application the grounds why an order extending time should be made and his affidavit in support shall set out the evidence on which he relies;</p> <p>(b) a respondent who wishes to oppose the making of an order extending time shall file an affidavit within 7 days after service of the applicant's affidavit, and</p> <p>(c) the Court shall decide whether or not to extend time without a hearing unless it appears to the Court that a hearing is required,</p> <p>and, where the Court makes an order extending the time limit, the respondent shall file his affidavit in</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>response to the arbitration application 21 days after the making of the order.</p>				
<p><b>Order 73, rules 23 to 29</b>  <b>Application of this Part</b>  <b>23.</b>—(1) This Part of this Order applies to any application to the Court to which the old law applies and, in this rule, "the old law" means the enactments specified in section 107 of the Arbitration Act 1996<sup>[9]</sup> as they stood before their amendment or repeal by that Act.  (2) This Part of this Order does not apply to proceedings to enforce an award —  (a) to which Part III of this Order applies; or  (b) by an action on the award.</p>	<p>No equivalent</p>	<p>No equivalent</p>	<p>This Part II of Order 73 of the UK Rules is necessary as it deals with applications before the court of arbitration agreements governed under the old law by virtue of the transitional provisions.</p>	<p>Transitional provision for repealing of Order 69 to be drafted along the lines of section 65 of the Arbitration Act 2001</p>



<b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b>	<b>Singapore Rules of Court Order 69</b>	<b>Singapore Rules of Court Order 69A</b>	<b>Parent provision that rule is based on</b>	<b>LRRD's Comments or recommendations</b>
<p>(3) Reference should be made to the other provisions of these rules (except Parts I and III of this Order) for the procedure for any application not expressly provided for in this Part.</p>				
<p><b>Matters for a judge in court<sup>[10]</sup></b>  <b>24.</b>—(1) Every application to the Court —  (a) to remit an award under section 22 of the Arbitration Act 1950<sup>[11]</sup>, or  (b) to remove an arbitrator or umpire under section 23(1) of that Act; or  (c) to set aside an award under section 23(2) of that Act, or  (d) to determine, under section 2(1) of the Arbitration Act</p>	<p><b>Matters for a Judge in Court (O. 69, r. 2)</b>  <b>2.</b>—(1) Every application to the Court —  (a) to remit an award under section 16;  (b) to remove an arbitrator or umpire under section 17(1);  (c) to set aside an award under section 17(2);  (d) for leave to appeal under section 28(2); or</p>	<p><b>Matters for a Judge in Court (O. 69A, r. 2)</b>  <b>2.</b>—(1) Every application to the Court —  (a) to decide on the challenge of an arbitrator under Article 13(3) of the Model Law;  (b) to decide on the termination of the mandate of an arbitrator under Article 14(1) of the Model Law;  (c) to appeal against the ruling of the arbitral tribunal under Article 16(3) of the Model</p>		<p>Retain current Order 69, rule 2 as modified.</p>

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>1979<sup>[2]</sup>, any question of law arising in the course of a reference, must be made by originating motion to a single judge in court.</p> <p>(2) Any appeal to the High Court under section 1(2) of the Arbitration Act 1979 shall be made by originating motion to a single judge in court.</p> <p>(3) An application for a declaration that an award made by an arbitrator or umpire is not binding on a party to the award on the ground that it was made without jurisdiction may be made by originating motion to a single judge in court, but the foregoing provision shall not be taken as affecting the judge's power to refuse to make such a declaration in proceedings begun by motion.</p>	<p>(e) to determine, under section 29, any question of law arising in the course of a reference, must be made by originating motion to a single Judge in Court.</p> <p>(2) Any appeal to the Court under section 28(2) must be made by originating motion to a single Judge in Court and notice thereof may be included in the application for leave to appeal, where leave is required.</p> <p>(3) An application for a declaration that an award made by an arbitrator or umpire is not binding on a party to the award on the ground that it was made without jurisdiction may be made by originating motion to a single Judge in Court, but the foregoing provision shall not be taken as affecting the Judge's</p>	<p>Law; or</p> <p>(d) to set aside an award under section 24 of the Act or Article 34 (2) of the Model Law, must be made by originating motion to a single Judge in Court.</p> <p>(2) Notwithstanding paragraph (1), the Court shall on the application of a party under section 22 of the Act hear the matter otherwise than in open Court.</p> <p>(3) An application under paragraph (1)(a), (b) or (c) shall be made within 30 days from the date of receipt by the applicant of the arbitral tribunal's decision or ruling.</p> <p>(4) An application under paragraph (1)(d) shall be made within 3 months from the date of receipt by the applicant of the award or the</p>		

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p><b>Matters for judge in chambers or master<sup>[1]</sup></b></p> <p><b>25.</b>—(1) Subject to the foregoing provisions of this Order and the provisions of this rule, the jurisdiction of the High Court or a judge thereof under the Arbitration Act 1950 and the jurisdiction of the High Court under the Arbitration Act 1975<sup>[4]</sup> and the Arbitration Act 1979 may be exercised by a judge in chambers, a master or the Admiralty registrar.</p> <p>(2) Any application</p>	<p>power to refuse to make such a declaration in proceedings begun by motion.</p>	<p>corrected award.</p> <p>(5) For the purpose of this Rule, the date of receipt of any decision, ruling, award or corrected award shall be determined in accordance with Article 3 of the Model Law.</p>		
<p><b>Matters for Judge in Chambers or Registrar (O. 69, r. 3)</b></p> <p>—(1) Subject to Rule 2, the jurisdiction of the High Court or a Judge thereof under the Act may be exercised by a Judge in Chambers or the Registrar.</p> <p>(2) Any application under section 28(5) (including any application for leave), or under section 32, must be made to a Judge in Chambers.</p> <p>(3) Any application to which this Rule applies must, where an action</p>	<p><b>Matters for a Judge in Chambers (O. 69A, r. 3)</b></p> <p>—(1) Every application or request to the Court —</p> <p>(a) to hear an application otherwise than in open Court under section 22 of the Act;</p> <p>(b) for leave to enforce interlocutory orders or directions of an arbitral tribunal under section 12 (5) of the Act;</p> <p>(c) for interlocutory orders or directions under section</p>			<p>Retain current Order 69, rule 3 as modified.</p>

<b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b>	<b>Singapore Rules of Court Order 69</b>	<b>Singapore Rules of Court Order 69A</b>	<b>Parent provision that rule is based on</b>	<b>LRRD's Comments or recommendations</b>
<p>(a) for leave to appeal under section 1(2) of the Arbitration Act 1979, or</p> <p>(b) under section 1(5) of that Act (including any application for leave), or</p> <p>(c) under section 5 of that Act, shall be made to a judge in chambers.</p> <p>(3) Any application to which this rule applies shall, where an action is pending, be made by summons in the action, and in any other case by an originating summons which shall be in Form No. 10 in Appendix A.</p> <p>(4) Where an application is made under section 1(5) of the Arbitration Act 1979 (including any application for leave) the summons must be served on the arbitrator or umpire and on any other party to the reference.</p>	<p>is pending, be made by summons in the action, and in any other case by originating summons.</p> <p>(4) Where an application is made under section 28(5) (including any application for leave), the summons must be served on the arbitrator or umpire and on any other party to the reference.</p>	<p>12(6) of the Act;</p> <p>(d) for leave to enforce an award under section 18 or 19 of the Act; or</p> <p>(e) for leave to enforce a foreign award under section 29 of the Act,</p> <p>shall be made to a Judge in Chambers or the Registrar.</p> <p>(2) Any application to which this Rule applies must, where an action is pending, be made by summons in the action, and in any other case by originating summons.</p> <p>(3) Where the case is one of urgency such application may be made ex parte on such terms as the Court thinks fit.</p>		

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p><b>Applications in district registries<sup>115</sup></b></p> <p><b>26.</b>—(1) An application under section 12(4) of the Arbitration Act 1950 for an order that a writ of subpoena ad testificandum or of subpoena duces tecum shall issue to compel the attendance before an arbitrator or umpire of a witness may, if the attendance of the witness is required within the district of a district registry, be made at that registry, instead of at the Admiralty and Commercial Registry, at the option of the applicant.</p>	<p>No equivalent</p>			<p>Not applicable.</p>
<p><b>Time limit and other special provisions as to appeals and applications under the Arbitration Acts<sup>116</sup></b></p> <p><b>27.</b>—(1) An application to the Court —</p>	<p>No equivalent</p>			<p>Not applicable.</p>

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(a) to remit an award under section 22 of the Arbitration Act 1950; or</p> <p>(b) to set aside an award under section 23(2) of that Act or otherwise, or</p> <p>(c) to direct an arbitrator or umpire to state the reasons for an award under section 1(5) of the Arbitration Act 1979, must be made, and the summons or notice must be served, within 21 days after the award has been made and published to the parties.</p> <p>(2) In the case of an appeal to the Court under section 1(2) of the Arbitration Act 1979, the summons for leave to appeal, where leave is required, and the notice of originating motion must be served and the appeal entered, within 21 days after the award has been made</p>				

<b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b>	<b>Singapore Rules of Court Order 69</b>	<b>Singapore Rules of Court Order 69A</b>	<b>Parent provision that rule is based on</b>	<b>LRRD's Comments or recommendations</b>
<p>and published to the parties.</p> <p>Provided that, where reasons material to the appeal are given on a date subsequent to the publication of the award, the period of 21 days shall run from the date on which the reasons are given.</p> <p>(3) An application, under section 2(1) of the Arbitration Act 1979, to determine any question of law arising in the course of a reference, must be made, and notice thereof served, within 14 days after the arbitrator or umpire has consented to the application being made, or the other parties have so consented.</p> <p>(4) For the purpose of paragraph (3) the consent must be given in writing.</p> <p>(5) In the case of every appeal or application to which this rule applies, the notice of originating motion, the originating summons or the</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>summons, as the case may be, must state the grounds of the appeal or application and, where the appeal or application is founded on evidence by affidavit, or is made with the consent of the arbitrator or umpire or of the other parties, a copy of every affidavit intended to be used, or, as the case may be, of every consent given in writing, must be served with that notice.</p> <p>(6) Without prejudice to paragraph (5), in an appeal under section 1(2) of the Arbitration Act 1979 the statement of the grounds of the appeal shall specify the relevant parts of the award and reasons, or the relevant parts thereof, shall be lodged with the court and served with the notice of originating motion.</p> <p>(7) Without prejudice to paragraph (5), in an application for leave to appeal under section 1(2) of the</p>				



<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>Arbitration Act 1979, any affidavit verifying the facts in support of a contention that the question of law concerns a term of a contract or an event which is not a one-off term or event must be lodged with the court and served with the notice of originating motion.</p> <p>(8) Any affidavit in reply to an affidavit under paragraph (7) shall be lodged with the court and served on the applicant not less than two clear days before the hearing of the application.</p> <p>(9) A respondent to an application for leave to appeal under section 1(2) of the Arbitration Act 1979 who desires to contend that the award should be upheld on grounds not expressed or fully expressed in the award and reasons shall not less than two clear days before the hearing of the application lodge with the court</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
and serve on the applicant a notice specifying the grounds of his contention.				
<p><b>Applications and appeals to be heard by Commercial Judges<sup>[U7]</sup></b></p> <p><b>28.</b>—(1) Any matter which is required, by rule 24 or 25, to be heard by a judge, shall be heard by a Commercial Judge, unless any such judge otherwise directs.</p> <p>(2) Nothing in the foregoing paragraph shall be construed as preventing the powers of a Commercial Judge from being exercised by any judge of the High Court.</p>	No equivalent			Not applicable.
<p><b>Service out of the jurisdiction of summons, notice, etc.<sup>[U8]</sup></b></p> <p><b>29.</b>—(1) Subject to paragraph (2), service out of the jurisdiction of —</p> <p>(a) any originating summons or</p>	<p><b>Service out of jurisdiction of summons, notice, etc. (O. 69, r. 5)</b></p> <p><b>5.</b>—(1) Service out of the jurisdiction —</p> <p>(a) of an originating summons</p>	<p><b>Service out of jurisdiction of originating process (O. 69A, r. 4)</b></p> <p><b>4.</b>—(1) Service out of the jurisdiction of the notice of an originating motion or the</p>		Retain Order 69, rule 5.

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>notice of originating motion under the Arbitration Act 1950 or the Arbitration Act 1979, or</p> <p>(b) any order made on such a summons or motion,</p> <p>is permissible with the leave of the Court provided that the arbitration to which the summons, motion or order relates is governed by English law or has been, is being or is to be held within the jurisdiction.</p> <p>(2) Service out of the jurisdiction of an originating summons for leave to enforce an award is permissible with the leave of the Court whether or not the arbitration is governed by English law.</p> <p>(3) An application for the grant of leave under this rule must be supported by an affidavit stating the grounds on which the application is made and showing in what place or</p>	<p>or notice of an originating motion under the Arbitration Act (Chapter 10); or</p> <p>(b) of any order made on such a summons or motion as aforesaid,</p> <p>is permissible with the leave of the Court provided that the arbitration to which the summons, motion or order relates is to be, is being, or has been held within the jurisdiction.</p> <p>(2) An application for the grant of leave under this Rule must be supported by an affidavit stating the ground on which the application is made and showing in what place or country the person to be served is, or probably may be found; and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this Rule.</p> <p>(3) Order 11, Rules 3, 4 and 6 shall apply in relation to any such summons, notice or order as is</p>	<p>originating summons or of any order made on such motion or summons under this Order is permissible with leave of the Court whether or not the arbitration was held or the award was made within the jurisdiction.</p> <p>(2) An application for the grant of leave under this Rule must be supported by an affidavit stating the ground on which the application is made and showing in what place or country the person to be served is, or probably may be found; and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this Rule.</p> <p>(3) Order 11, Rules 3, 4 and 6 shall apply in relation to any such summons, notice or order as is</p>		

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>country the person to be served is, or probably may be found; and no such leave shall be granted unless it shall be made to appear to the Court that the case is a proper one for service out of the jurisdiction under this rule.</p> <p>(4) Order 11, rules 5 to 8, shall apply in relation to any such summons, notice or order as is referred to in paragraph (1) as they apply in relation to a writ.</p>	<p>that the case is a proper one for service out of the jurisdiction under this Rule.</p> <p>(3) Order 11, Rules 3, 4 and 6, shall apply in relation to any such summons, notice or order as is referred to in paragraph (1) as they apply in relation to a writ.</p>	<p>referred to in paragraph (1) as they apply in relation to a writ.</p>		
<p><b>Part III of Order 73</b>  <b>Order 73, rules 30 and 31</b>  <b>Application of this Part</b>  <b>30.</b> This Part of this Order applies to all enforcement proceedings (other than by an action on the award) regardless of when they are commenced and when the arbitral proceedings took place.</p>	<p><b>Enforcement of arbitration awards (O. 69, r. 7)</b>  <b>7.—</b>(1) An application for leave under section 20 to enforce an award on an arbitration agreement in the same manner as a judgment or order may be made <i>ex parte</i> but the Court hearing the application may direct a summons to be issued.  (2) If the Court directs a summons to be issued, the summons must be</p>	<p><b>Enforcement of interlocutory orders or directions (O. 69A, r. 5)</b>  <b>5.—</b>(1) An application for leave to enforce an order or direction given by an arbitral tribunal must be supported by an affidavit —  (a) exhibiting a copy of the arbitration agreement and the original order or direction made by the arbitral tribunal sought to be enforced; and</p>		<p>Retain Order 69, rule 7 on enforcement of arbitration awards.</p>

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p><b>Enforcement of awards<sup>[1]</sup></b></p> <p>31.—(1) This rule applies to applications to enforce awards which are brought in the High Court<sup>[2]</sup> and such an application may be made in the Royal Courts of Justice or in any district registry.</p> <p>(2) An application for leave under —</p> <p>(a) section 66 of the Arbitration Act 1996;</p> <p>(b) section 101 of the Arbitration Act 1996;</p> <p>(c) section 26 of the Arbitration Act 1950<sup>[21]</sup>, or</p> <p>(d) section 3(1)(a) of the Arbitration Act 1975;</p> <p>to enforce an award in the same manner as a judgment or order may be made <i>ex parte</i> in Form No. 8A in Appendix A.</p>	<p>by originating summons.</p> <p>(3) An application for leave must be supported by affidavit —</p> <p>(a) exhibiting the arbitration agreement and the original award or, in either case, a copy thereof;</p> <p>(b) stating the name and the usual or last known place of abode or business of the applicant (referred to in this Rule as the creditor) and the person against whom it is sought to enforce the award (referred to in this Rule as the debtor) respectively; and</p> <p>(c) as the case may require, stating either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.</p>	<p>(b) stating the provisions in the Act or the applicable rules adopted in the arbitration on which the applicant relies.</p> <p>(2) Where the order sought to be enforced is in the nature of an interim injunction under section 12 (1) (e) or (f) of the Act, leave shall be granted only if the applicant undertakes to abide by any order the Court or the arbitral tribunal may make as to damages.</p> <p><b>Enforcement of arbitral awards (O. 69A, r. 6)</b></p> <p>6.—(1) An application for leave to enforce an award or a foreign award must be supported by an affidavit —</p> <p>(a) exhibiting the arbitration agreement and the duly authenticated original award or, in either case, a duly</p>		

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(3) The Court hearing an application under paragraph (2) may direct that the application is to be served on such parties to the arbitration as it may specify and service of the application out of the jurisdiction is permissible with the leave of the Court irrespective of where the award is, or is treated as, made.</p> <p>(4) Where a direction is given under paragraph (3), rules 11 and 13 to 17 shall apply with the necessary modifications as they apply to applications under Part I of this Order.</p> <p>(5) Where the applicant applies to enforce an agreed award within the meaning of section 51(2) of the Arbitration Act 1996, the application must state that the award is an agreed award and any order made by the Court shall also contain such a statement.</p>	<p><i>Singapore Rules of Court Order 69</i></p> <p>(4) An order giving leave must be drawn up by or on behalf of the creditor and must be served on the debtor by delivering a copy to him personally or by sending a copy to him at his usual or last known place of abode or business or in such other manner as the Court may direct.</p> <p>(5) Service of the order out of the jurisdiction is permissible without leave, and Order 11, Rules 3, 4 and 6, shall apply in relation to such an order as they apply in relation to a writ.</p> <p>(6) Within 14 days after service of the order or, if the order is to be served out of the jurisdiction, within such other period as the Court may fix, the debtor may apply to set aside the order and the award shall not be enforced until after the expiration of that period</p>	<p><i>Singapore Rules of Court Order 69A</i></p> <p>certified copy thereof and where the award or agreement is in a language other than English, a translation of it in the English language, duly certified in English as a correct translation by a sworn translator or by an official or by a diplomatic or consular agent of the country in which the award was made;</p> <p>(b) stating the name and the usual or last known place of abode or business of the applicant (referred to in this Rule as the creditor) and the person against whom it is sought to enforce the award (referred to in this Rule as the debtor) respectively; and</p> <p>(c) as the case may require,</p>		

<b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b>	<b>Singapore Rules of Court Order 69</b>	<b>Singapore Rules of Court Order 69A</b>	<b>Parent provision that rule is based on</b>	<b>LRRD's Comments or recommendations</b>
<p>(6) An application for leave must be supported by affidavit —</p> <p>(a) exhibiting</p> <p>(i) where the application is made under section 66 of the Arbitration Act 1996 or under section 26 of the Arbitration Act 1950, the arbitration agreement and the original award or, in either case, a copy thereof;</p> <p>(ii) where the application is under section 101 of the Arbitration Act 1996, the documents required to be produced by section 102 of that Act;</p> <p>(iii) where the application is under section 3(1)(a) of the Arbitration Act</p>	<p>or, if the debtor applies within that period to set aside the order, until after the application is finally disposed of.</p> <p>(7) The copy of that order served on the debtor must state the effect of paragraph (6).</p> <p>(8) In relation to a body corporate this Rule shall have effect as if for any reference to the place of abode or business of the creditor or the debtor there were substituted a reference to the registered or principal address of the body corporate; so, however, that nothing in this Rule shall affect any enactment which provides for the manner in which a document may be served on a body corporate.</p>	<p>stating either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.</p> <p>(2) An order giving leave must be drawn up by or on behalf of the creditor and must be served on the debtor by delivering a copy to him personally or by sending a copy to him at his usual or last known place of abode or business or in such other manner as the Court may direct.</p> <p>(3) Service of the order out of the jurisdiction is permissible without leave, and Order 11, Rules 3, 4 and 6, shall apply in relation to such an order as they apply in relation to a writ.</p> <p>(4) Within 14 days after service of the order or, if the order is to be served out of the jurisdiction,</p>		

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>1975, the documents required to be produced by section 4 of that Act;</p> <p>(b) stating the name and the usual or last known place of residence or business of the applicant and of the person against whom it is sought to enforce the award respectively,</p> <p>(c) stating as the case may require, either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.</p> <p>(7) An order giving leave must be drawn up by or on behalf of the applicant and must be served on the respondent by delivering a copy to him personally or by sending a copy to him at his usual or last known place of residence or business or in</p>		<p>within such other period as the Court may fix, the debtor may apply to set aside the order and the award shall not be enforced until after the expiration of that period or, if the debtor applies within that period to set aside the order, until after the application is finally disposed of.</p> <p>(5) The copy of that order served on the debtor must state the effect of paragraph (4).</p> <p>(6) In relation to a body corporate, this Rule shall have effect as if for any reference to the place of abode or business of the creditor or the debtor there were substituted a reference to the registered or principal address of the body corporate; so, however, that nothing in this Rule shall affect any enactment which provides for the manner in which a document may</p>		



<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>such other manner as the Court may direct.</p> <p>(8) Service of the order out of the jurisdiction is permissible without leave, and Order 11, rules 5 to 8, shall apply in relation to such an order as they apply in relation to a writ.</p> <p>(9) Within 14 days after service of the order or, if the order is to be served out of the jurisdiction, within such other period as the Court may fix, the respondent may apply to set aside the order and the award shall not be enforced until after the expiration of that period or, if the respondent applies within that period to set aside the order, until after the application is finally disposed of.</p> <p>(10) The copy of the order served on the respondent shall state the effect of paragraph (9).</p>		<p>be served on a body corporate.</p>		

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(11) In relation to a body corporate this rule shall have effect as if for any reference to the place of residence or business of the applicant or the respondent there were substituted a reference to the registered or principal address of the body corporate.</p> <p>Nothing in this rule shall affect any enactment which provides for the manner in which a document may be served on a body corporate.</p>				
<p><b>Order 73, rule 32</b>  <b>Interest on awards</b>  <b>32.—</b>(1) Where an applicant seeks to enforce an award of interest, the whole or any part of which relates to a period after the date of the award, he shall file a certificate giving the following particulars —</p>	No equivalent	No equivalent	Section 66, UKAA	Not necessary to adopt— inconsistent with the provisions of the Rules of Court.

<b>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</b>	<b>Singapore Rules of Court Order 69</b>	<b>Singapore Rules of Court Order 69A</b>	<b>Parent provision that rule is based on</b>	<b>LRRD's Comments or recommendations</b>
<p>(a) whether simple or compound interest was awarded;</p> <p>(b) the date from which interest was awarded;</p> <p>(c) whether rests were provided for, specifying them;</p> <p>(d) the rate of interest awarded, and</p> <p>(e) a calculation showing the total amount claimed up to the date of the certificate and any sum which will become due thereafter on a <i>per diem</i> basis.</p> <p>(2) The certificate under paragraph (1) must be filed whenever the amount of interest has to be quantified for the purpose of obtaining a judgment or order under section 66 of the Arbitration Act (enforcement of the award) or for the purpose of enforcing such a</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>judgment or order by one of the means mentioned in Order 45, rule 1.</p> <p><b>Order 73, rule 33</b></p> <p><b>Registration in High Court of foreign awards</b><sup>[22]</sup></p> <p>33. Where an award is made in proceedings on an arbitration in any part of Her Majesty's dominions or other territory to which Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933<sup>[23]</sup> extends, being a part to which Part II of the Administration of Justice Act 1920<sup>[24]</sup> extended immediately before the said Part I was extended thereto, then, if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place, Order 71 shall apply in relation to the award as it applies in relation to a judgment</p>	<p><b>Registration in High Court of foreign judgments based on awards (O. 69, r. 6)</b></p> <p>6. Where an award is made in proceedings on an arbitration in any part of the Commonwealth or other territory to which the Reciprocal Enforcement of Commonwealth Judgments Act (Chapter 264) extends, being a part to which Part I of the Reciprocal Enforcement of Foreign Judgments Act (Chapter 265), shall in relation to that part of the Commonwealth have effect, then, if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place, Order 67 shall apply in relation to the award as it</p>	<p>No equivalent</p>		<p>Not necessary to adopt for IAA. Retain the existing AA Order 69, rule 6 subject to modifications proposed by SIAC.</p>

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>given by that court, subject, however, to the following modifications:—</p> <p>(a) for references to the country of the original court there shall be substituted references to the place where the award was made; and</p> <p>(b) the affidavit required by rule 3 of the said Order must state (in addition to the other matters required by that rule) that to the best of the information or belief of the deponent the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place.</p>	<p>applies in relation to a judgment given by that court, subject, however, to the following modifications:</p> <p>(a) for references to the country of the original court there shall be substituted references to the place where the award was made; and</p> <p>(b) the affidavit required by Order 67, Rule 3, must state (in addition to the other matters required by that Rule) that to the best of the information or belief of the deponent the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place.</p>			

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRD's Comments or recommendations</i>
<p><b>Registration of awards under the Arbitration (International Investment Disputes) Act 1966<sup>[25]</sup></b></p> <p><b>34.—</b>(1) In this rule and in any provision of these rules as applied by this rule—</p> <p>"the Act of 1966" means the Arbitration (International Investment Disputes) Act 1966;</p> <p>"award" means an award rendered pursuant to the Convention;</p> <p>"the Convention" means the Convention referred to in section 1(1) of the Act of 1966;</p> <p>"judgment creditor" and "judgment debtor" mean respectively the person seeking recognition or enforcement of an award and the other party to the award.</p> <p>(2) Subject to the provisions of this rule, the following provisions of</p>				<p>Not necessary as section 9 of our Arbitration (International Investment Disputes) Act excludes the Arbitration Act. It also has its own rules with respect to registration of awards. We have no equivalent of the Multi-lateral Investment Guarantee Act of the UK.</p>

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>Order 71, namely, rules 1, 3(1) (except sub-paragraphs (c)(iv) and (d) thereof) 7 (except paragraph 3)(c) and (d) thereof), and 10(3) shall apply with the necessary modifications in relation to an award as they apply in relation to a judgment to which Part II of the Foreign Judgments (Reciprocal Enforcement) Act 1933 applies.</p> <p>(3) An application to have an award registered in the High Court under section 1 of the Act of 1966 shall be made by originating summons which shall be in Form No. 10 in Appendix A.</p> <p>(4) The affidavit required by Order 71, rule 3, in support of an application for registration shall —</p> <p>(a) in lieu of exhibiting the judgment or a copy thereof, exhibit a copy of the award certified pursuant to the</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>Convention; and</p> <p>(b) in addition to stating the matters mentioned in paragraph 3(1)(c)(i) and (ii) of the said rule 3, state whether at the date of the application the enforcement of the award has been stayed (provisionally or otherwise) pursuant to the Convention and whether any, and if so what, application has been made pursuant to the Convention, which, if granted, might result in a stay of the enforcement of the award.</p> <p>(5) There shall be kept in the Admiralty and Commercial Registry under the direction of the Senior Master a register of the awards ordered to be registered under the Act of 1966 and particulars shall be entered in the register of any execution issued on such an award.</p>				



<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(6) Where it appears to the Court on granting leave to register an award or an application made by the judgment debtor after an award has been registered —</p> <p>(a) that the enforcement of the award has been stayed (whether provisionally or otherwise) pursuant to the Convention, or</p> <p>(b) that an application has been made pursuant to the Convention, which, if granted, might result in a stay of the enforcement of the award,</p> <p>the Court shall, or in the case referred to in sub-paragraph (b) may, stay execution of the award for such time as it considers appropriate in the circumstances.</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
<p>(7) An application by the judgment debtor under paragraph (6) shall be made by summons and supported by affidavit.</p> <p><b>Registration of awards under the Multilateral Investment Guarantee Agency Act 1988<sup>[26][27]</sup></b></p> <p>35. Rule 34 shall apply, with the necessary modifications, in relation to an award rendered pursuant to the Convention referred to in section 1(1) of the Multilateral Investment Guarantee Agency Act 1988 as it applies in relation to an award rendered pursuant to the Convention referred to in section 1(1) of the Arbitration (International Investment Disputes) Act 1966.</p> <p>6. After Form No. 8 in Appendix A there shall be inserted the form in Schedule 1 to these Rules.</p>				

<i>UK Order 73 (as amended after passing of UK Arbitration Act 1996 by the UK Rules of Supreme Court (Amendment) 1996 No.3219)</i>	<i>Singapore Rules of Court Order 69</i>	<i>Singapore Rules of Court Order 69A</i>	<i>Parent provision that rule is based on</i>	<i>LRRD's Comments or recommendations</i>
7. After Form No. 15 in Appendix A there shall be inserted the form in Schedule 2 to these Rules.				

*Annex C-1*

<i>Application made</i>	<i>Statutory requirements</i>	<i>AA/IAA equivalent</i>
Section 9 (stay of legal proceedings)	see section 9(3)	Section 6 of AA Section 6 of IAA
Section 12 (extensions of time for beginning)	see section 12(2) arbitral proceedings)	Section 10 (based on UK) of AA No IAA equivalent
Section 18 (failure of appointment procedure)	see section 18(2)	No equivalent- SIAC default appointing authority under s13
Section 21 (umpires)	see section 21(5)	No equivalent
Section 24 (removal of arbitrators)	see section 24(2)	Section 16 of AA- not based on UK AA Article 14 of ML, IAA
Section 32 (preliminary point of jurisdiction)	see section 32(3)	No equivalent
Section 42 (enforcement of peremptory orders)	see section 42(3)	No equivalent
Section 44 (powers in support of arbitral)	see section 44(4), (5) proceedings)	Section 31 AA- slightly modified from UK AA No equivalent in IAA
Section 45 (preliminary point of law)	see section 45(3)	Section 45 AA- based on UK AA No equivalent in IAA
Section 50 (extension of time for making award)	see section 50(2)	Section 36 AA- based on UK AA No equivalent in IAA
Section 56 (power to withhold award)	see section 56(4)	Section 41 AA-based on UK AA No equivalent in IAA
Sections 67, 68 (challenging the award)	see section 70(2), (3)	No equivalent
Section 69 (appeal on point of law)	see sections 69(2), (4), 70(2), (3)	Section 50 AA- based on UK AA No equivalent in IAA
Section 77 (service of documents)	see section 77(3)	No equivalent- our s60 service of notices based on s76 UK AA.

**APPLICATIONS TO THE COURT UNDER  
THE ARBITRATION ACT 2001**

<i>Section of Arbitration Act 2001</i>	<i>Description of application</i>
S6(1)	stay of legal proceedings
S6(4)	to reinstate discontinued proceedings
S10, 36	extension of time for making an award
S15(4)	challenge of arbitrator after rejected by tribunal
S16	removal of arbitrator
S21(9)	tribunal's ruling on preliminary jurisdiction
S28(4)	leave to enforce interlocutory orders or directions
S31	order in support of arbitration proceedings
S37, 46	leave to enforce award
S41(2)	if tribunal withholds award for non-payment of fees
S45	determination of preliminary point of law
S48	setting aside award
S49(3)	appeal to court against award on point of law
S52	leave to appeal
S56	proceedings to be heard not in open court
S57	restriction of reporting on proceedings



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S I A C

27 December 2001

Mr. Charles Lim  
Head of Law Reform & Revision Division  
Attorney-General's Chambers  
1 Coleman Street, #05-04  
Singapore 179803

Dear *Charles,*

**Re: Proposed Amendments to Order 69 and 69A Rules of Court**

In answer to your letter of 27 November, I set out in the attachments my comments and proposals.

I am afraid that the comments as well as my proposals are rather long. I make no apologies for it, because the existing Order 69, some of the provisions of which have been repeated in your draft, on close examination contains elements which are misleading, unhelpful or plainly wrong. Some of the existing rules have been a bugbear for practitioners. There are also other matters of substance on which I have made comments and drafting proposals. You may agree that on the occasion of the introduction of a new Arbitration Act, we should introduce a set of rules that would be more easily understood, helpful and relevant. This is what my proposals have sought to do.

I should be happy to discuss my comments and proposals when you have had a chance to look at them.

*With warmest regards,*

Yours sincerely,

  
(Warren Khoo)

Encls.

WK/pk

## **Comments On Proposed Orders 69 and 69A of the Rules of Court**

**By Warren Khoo**

I have been asked to comment on the draft proposed Orders 69 and 69A of the Rules of Court received from the Attorney-General's Chambers on 27 November 2001. This is the second draft that has been submitted to me, following comments on the first draft. A copy of the second draft is attached as Annex A. A copy of the first draft is attached as Annex B.

In the following comments, references to Rules are references to the Rules in the second draft, unless otherwise stated.

### **I. Amendment of Order 69**

#### **A. Rule 2 (applications to be by originating motion)**

Section 49 provides for appeals on a question of law arising out of an award. A party may appeal with the agreement of the other party, or with leave of the Court.

Since separate provisions are now to be made for appeal with agreement of the parties to the arbitration under s 49 (3) (a) in addition to application for leave to appeal under s 49 (3) (b), Rule 2 should be expanded to include a provision for appeal with agreement in addition to item (f) in the list in Rule 2(1) referring to application for leave.

A separate paragraph under Rule 2 to deal with appeal by agreement is necessary, as Rule 2(1) deals with "applications", and it is inappropriate to speak of "application to appeal".



I also suggest that the exact limb of s 49(3) of the Act, i.e. limb (a) or or limb (b), be used when referring to appeal with consent and appeal with leave. So, Rule 2(1)(f) should refer to section 49(3)(b), while the proposed addition should refer to section 49(3)(a). Precision could be very helpful in a field with which not all practitioners are familiar.

I therefore suggest that item (f) of Rule 2(1) should say “for leave to appeal under s 49(3)(b) of the Act”.

The additional rule for appeal with agreement may be worded thus:

“An appeal with the agreement of all parties to the arbitration proceedings under s 49(3)(a) shall be made by originating motion.”

If these suggestions are accepted, then Rule 2(2) should refer to this additional paragraph in addition to “paragraph (1)”.

Finally, I suggest that the words “to a single Judge in Court” in the last line of Rule 2(1) should be deleted, for the simple reason that all originating motions in the High Court are heard before a single Judge. These words would imply that there may be some originating motions which are heard before more than one judge, which is not the case. The expression is of English origin and has no application in Singapore.

#### *B. Rule 2(3) and (2)(5) (time limits)*

Rule 2(3) and (5) merely repeat the time limits already provided in s 15(4), 21(9) and 48(2) of the Act, and then not always using the same phraseology as in the relevant provisions of the Act. This is quite unnecessary, and is not in accordance with RSC usage. I think these two sub-rules should be deleted.

C. First part of Rule 2(4): Reference to Rule 2(1)(d) (application to determine point of law)

Rule 2(4) has two parts. The first part, referring to Rule 2 (1)(d), relates to applications to determine a point of law arising in the arbitral proceedings under s 45 of the Act. Read with Rule 4(1) of the draft, this part of Rule 2(4) in effect provides that such an application may be made within 14 days of the agreement of the parties or approval of the tribunal.

This is at variance with s 50(3), which provides that an application under s 45 of the Act must be made *“within 28 days of the award or, if there has been any arbitral process of appeal or review, of the date when the applicant or appellant was notified of the result of that process.”*

I understand, I do not know whether correctly, that the reference in s 50(1) to applications under s 45 was a mistake. It does seem to be a mistake, as s 45 provides for a situation which by definition arises in the course of the arbitral proceedings, as opposed to after an award has been rendered. The situation in s 45 cannot be made to fit into the time frame provided in s 50(3), pegging the starting point to the date of the award or notification of result of the appeal/review process.

On the assumption that the reference in s 50(1) to s 45 is a mistake and that this mistake will in due course be rectified, the position is that no time limit is provided for in the Act for the making of an application under s 45 or that such time limit as appears to have been provided in s 50(3) cannot be applied to a situation under s 45. On this basis, it would be useful to provide a time limit in the Rules.

However, editorially speaking, since the proposed time limit is provided fully and substantively in Rule 4 (1), it is not necessary to foreshadow it here. This part of Rule 2(4) can, or should, be deleted.

D. Second part of Rule 2(4): Reference to Rule 2(1)(f) (appeal by agreement)

The second part of Rule 2(4), referring to paragraph 1(f), relates to appeals by agreement of the parties on a question of law. Read with Rule 5(1) of the draft, it provides for a time limit of 28 days from *the date of agreement between the parties*. This, again, is at variance with s 50, where the 28 days limit is pegged to the *date of the award* or *the date of the exhaustion of arbitral review process*.

In so far as it purports to peg the 28 days to the date of the agreement of the parties, I think this part of the draft Rule 2(4) is an unwarranted extension of s 50. It may be ultra vires. It is also unsound in principle, in that it theoretically may allow the parties at any time after the normal period of 28 days after date of award to agree to an appeal, since it does not provide a time limit within which the agreement must be secured.

The working assumption of s 50 must be that, within the same period of 28 days (after award or exhaustion of the appeal/review process), the appeal by agreement or the application for leave must be launched. Within the 28 days provided, you must either secure the agreement or the other party, or you must apply for leave. A losing party who wishes to appeal, unless he has obtained the agreement of the other party in advance or soon after the award, should reckon on having to apply for leave.

The draft Rule 5(1) appears to have been drawn in part from the present RSC Order 69 r 4(2). Order 69 r 4(2) purports to provide a procedure for appeal under s 28(2) of the former Arbitration Act, the equivalent of the present s 49. But, it is at odds with s 28(2). It speaks of notice of appeal, rather than application for leave to appeal, as a counterpart to appeal with consent. It is a provision which is difficult to understand and even more difficult to apply. It departed, for no apparent reason, from the corresponding Order 73 r 5(2) of the then English Rules. See e.g. in White Book 1988.

The then Order 73 r 5(2) contemplates the same time limit of 21 days after making of the award for the application for leave to appeal and for the appeal (with agreement). See the commentary on that rule under the heading “Time for applying” at p 1119 of the White Book 1988.

Bruce Harris et al in their Commentary on the corresponding section 70(3) of the Arbitration Act of 1996 (p.317 2<sup>nd</sup> ed.) assume the same time limit for leave to appeal and appeal by agreement.

S 50 (3), as it stands, pegging the time limit to the date of the award or result of the appeal/review process, is intended to work, and can work, both in cases where the agreement of parties to the arbitration is obtained for the appeal and in cases where leave has to be applied for. There is no justification for a separate time limit for the case of appeal with agreement.

The second part of Rule 2(4) should be deleted. In effect, the whole of Rule 2(4) should be deleted, so should Rule 5(1).

*E. Rule 5 (appeal on a question of law with agreement of parties)*

I think it may be worthwhile to emphasise that an appeal subject of this rule is an appeal on a question of law arising out of an award, as provided in the substantive provisions of s 49. It is too much of a short-hand to describe it as an “appeal against an award”. Secondly, for the reasons just stated, the time limit can be omitted, and s. 50 should be allowed to apply according to its tenor.

As to what should be included in the notice of motion, I think that the list of matters listed in (a) to (d) in the draft Rule 5 are too sketchy. Since the notice of motion and its accompanying documents are to serve as the main, or the only, reference documents in the appeal, and no further material is required to be filed, the rule should give greater guidance to the users as to the contents of what need to be filed.

The rule should be expanded to include and reflect developments in the RSC in terms of the documentation required to be filed in an appeal. The RSC rules now require disclosure and exposition of the parties' respective case in substantial detail in the form of written Cases filed before the hearing, so that at the hearing the appeal can be argued on the basis of the Cases filed. See Order 55D (appeals from Subordinate Courts to High Court) and Order 57 (appeals from High Court to the Court of Appeal). There is also provision in the RSC for the respondent to raise other grounds to support the decision under appeal than those that appear in the decision ("respondent's notice"). There is also provision for security for costs etc.

The current English provisions (in Order 73 Rule 4) are too general and sketchy to be helpful. They are not in line with these developments in our RSC. However, a Practice Note issued in 1985 by the English Commercial Court in relation to appeals under the *former* s 1(2) of the 1979 UK Arbitration Act, has some elements in it which could usefully be adopted. That section is the forerunner of our section 49 and the present English section 69. The Practice Note is more in line with the provisions of our new RSC rules just mentioned, than are the provisions in the current English Order 73 Rule 4. A copy of the Practice Note [1985] 2 AER 383 is attached as Annex B Bis. See also the White Book (1999) commentary on the English Order 73 Rule 24 and Rule 27.

My general proposal is therefore to import and adapt elements of our Orders 55D and 57 and the English Practice Note. These should include detailed provisions in regard to the documentation for the appeal, provisions for the “respondent’s notice”, provision for withdrawal of the appeal and its consequences, and for security for costs. The first two are to strengthen the process and make it more efficient, and the last two to protect the interest of the respondent to the appeal.

Annex C contains a proposed draft of a Rule 5 which incorporates these elements, for consideration.

*F. Rule 5A (application for leave to appeal)*

The existing rules blur the distinction between leave to appeal on the one hand and the appeal proper on the other. This is a bug bear for practitioners. It is right that the draft Rules make an attempt to provide separately for the two things.

The underlying assumption of the draft, an assumption which I think is correct, is that the application for leave to appeal should contain sufficient material on the substantive appeal, so that if leave is granted, the substantive appeal can proceed on the basis of the documentation filed, without the need for the filing of further materials. This being the case, this rule could incorporate elements from my proposed Rule 5, with the addition of provisions to meet the special needs of a leave application.

What is needed here is a notice of motion for leave to appeal and, in the event that leave is granted, for the substantive appeal to be heard. The application for leave to appeal must be supported by an affidavit showing that the requirements in s 49(5) have been satisfied. This is already provided for in the draft Rule 5(3).

The *proposed* substantive appeal could have, as its platform a *proposed* Appellant's Case and a *proposed* Respondent's Case in terms similar to the Appellant's Case and Respondent's Case in my proposed Rule 5, supported by the necessary documentation (core bundles etc.)

My proposed Rule 5A, incorporating these considerations, appears in Annex C. I have deleted the draft Rule 5A(6), providing that the court shall determine the application in accordance with s 49(5). This draft Rule 5A(6) appears to have been taken from the English Rule 20(4), where s 69(5) of the English Act is referred to. But s. 69(5) provides for something (decision without hearing) quite different from that provided in our s 49(5).

#### G. Setting aside of award – an omission

The Act provides in s 48 for the setting aside of an arbitral award, but there is nothing in the draft rules about the procedure. Surely this should be included as one of the items in Rule 2(1), followed by detailed rules subsequently. There is no precedent for this in our existing rules or in the English rules. I have made an attempt in Annex C, drawing somewhat on bits of our RSC Order 17 dealing albeit with quite a different subject (Interpleader). The Rule can in future be elaborated with experience in its operation.

#### H. Rule 5B (leave to appeal to Court of Appeal)

The first draft set of rules provided in the then Rule 5(5) for leave to appeal against a decision of the Court "*under the Act*", i.e. under *all* sections of the Act that provide for leave to appeal to the Court of Appeal. That was a good idea, but the draft rule then was in the wrong place, being submerged in Rule 5 (which dealt with leave to appeal under s 49 only), rather than standing as a separate rule in its own right.

The present draft Rule 5B is in the right place, i.e. being correctly given the status of a separate rule. But the contents are too narrow. It deals only with leave to appeal against a decision under s. 49, while there are quite a few other sections of the Act that also provide for leave to appeal to the Court of Appeal. These are, or include, s 21(10) (tribunal's jurisdiction), s 36(6) (extension of time for making an award), s 41(8) (withholding of award for non-payment of fees), s 45(5) and s 45(7) (preliminary point of law), and s 50(9) (security for costs). I cannot see any reason why Rule 5A should not cover these cases in addition to the cases under s 49. I have included a more general rule in Annex C, adopting Rule 5(5) of the first draft.

*I. Rule 7(service out of jurisdiction)*

Rule 7(1)(a) refers to originating summons and originating motions "under the Act". The Act as such does not provide for such processes; it is the proposed Order 69 which provide for them. It is therefore more appropriate to refer to originating summons and notice of originating motion "under this Order" in the manner of the existing Order 69A r. 4.

*J. Rule 12 ("Registration in High Court of foreign judgments based on awards")*

This draft rule reproduces Order 69 Rule 6 of the existing RSC rules. It is an adaptation of the English rule which appears currently as Order 73 r 33. "Part II of the Administration of Justice Act 1920", referred to in the English rule, is the equivalent of our Reciprocal Enforcement of Commonwealth Judgments Act. "Part I of the Reciprocal Enforcement of Foreign Judgments Act", also referred to in the English rule, is the equivalent of Part I of our own Act of the same title. For short, I shall refer to the one Act as the "Commonwealth Judgments Act", and to the other Act as the "Foreign Judgments Act".



Order 69 r 6 of the existing rule, repeated in r 12 of the draft, assumes that orders have been made extending Part I of the “Foreign Judgments Act” to countries and territories to which the “Commonwealth Judgments Act” applies. This is not a correct assumption.

In England, orders in council have been made extending Part I of the Reciprocal Enforcement of Foreign Judgments Act to countries to which Part II of the Administration of Justice Act applies. See *Dicey* 13<sup>th</sup> ed. para 16-135. See also White Book 1999 ed. Vol. 1 para 71/1/6. But unlike in England, no such orders have been made under our “Foreign Judgments Act” extending Part I of that Act to the UK and other Commonwealth countries to which the “Commonwealth Judgments Act” applies.

So, Order 69 Rule 6 of the RSC, reproduced in the draft rule 12, in its present form is entirely useless in practice, as it provides for a non-existent situation. No Commonwealth country or territory can qualify because of the addition of the restrictive words “being a part to which Part I of the Reciprocal Enforcement of Foreign Judgments Act shall, in relation to that part of the Commonwealth have effect.” On the other hand, the UK and other Commonwealth countries to which the “Commonwealth Judgments Act” applies are left out of the ambit of this rule where a rule is needed.

If draft rule 12 is to serve any purpose, it should be to serve the purpose of providing a machinery for the enforcement of arbitral awards rendered in the countries and territories to which the “Commonwealth Judgments Act” applies, in the same way as Order 67 applies for the enforcement by registration of judgments rendered in those Commonwealth countries and territories.

So, my first suggestion on this draft rule 12 is that the reference to Part I of the Reciprocal Enforcement of Foreign Judgments should be deleted.

My second suggestion is that the heading should be amended. What is dealt with here is not a judgment based on the award. If an award has been turned into a judgment, e.g. according to a mechanism similar to that in s 46(2), what is enforced is, presumably, a judgment, and this is a subject dealt with in Order 67 and is not to be dealt with here. What is intended to be dealt with here is the enforcement of the award *as an award*. Such an award is enforced like a judgment, but it is not enforced *as a judgment*. See Dicey op cit. Para 16-068, Rule 60, para 16-080.

The heading should therefore not refer to *judgments* based on awards, but to the awards themselves. The title of the English Order 73 r. 33 (“Registration in High Court of foreign awards”) should be followed, but with just one exception. The word “foreign” is appropriate in the UK context, but not in ours. We should refer to “Commonwealth” awards.

Annex C contains my proposal for a Rule 12. I have deleted the reference to Part I of the Reciprocal Enforcement of Foreign Judgments Act. I have also amended the opening words of the Rule 12 (using the expression “UK and other territory to which s 5 of the “Commonwealth Judgments Act” applies”), to ring it in line with the better language in Order 67 r 2(a) and with the language and structure of the “Commonwealth Judgments Act”.

Paragraph (a) in the draft Rule 12 (reproducing para (a) of RSC Order 69 r 6), with its reference to the “country of the original court” has been deleted, as it is applicable only in the context of the Reciprocal Enforcement of Foreign Judgments Act, e.g. in Order 67 r.11 and r. 12.

K. Special position of Hong Kong

Hong Kong used to be a territory to which the “Commonwealth Judgments Act” extended, so that both court judgments and arbitral awards originating there were enforceable under that Act.

Since its reversion to the PRC on 1 July 1997, Hong Kong has been treated by us as a foreign country, as opposed to a Commonwealth country. By Gazette notification S 93/99, Part I of the “Foreign Judgments Act” was declared to apply to judgments of its superior courts.

Hong Kong is the only country or territory to which Part I of the “Foreign Judgments Act” has been extended.

Order 67 of the RSC provides for the enforcement by registration of court judgments not only under the “Commonwealth Judgments Act” but also under the “Foreign Judgments Act”. Until Hong Kong was brought within the operation of Part I of the “Foreign Judgments Act”, the parts of Order 67 providing for enforcement of judgments under the “Foreign Judgments Act” were not operative, as there were no countries whose judgments could come under the ambit of the Order. Now that Hong Kong has been brought under the Act, Order 67 can fully operate, both in relation to foreign judgments and in relation to Commonwealth judgments.

Turing to draft Rule 12, since Hong Kong is treated as any foreign country and not as a Commonwealth territory to which Part I of the “Foreign Judgments Act” is extended, Hong Kong would not fit the description of the opening words of the draft Rule 12. Secondly, the “Foreign Judgments Act” applies to the enforcement of court judgments only, and does not apply to arbitral awards, except awards made in a Commonwealth country to which the Part I of the “Foreign Judgments Act” is extended. Since Hong Kong is treated as a foreign country, arbitral awards made in Hong Kong

would be excluded from the ambit of the draft Rule 12; Rule 12 would not serve any purpose even for Hong Kong.

My view is that until a Commonwealth country has been brought under the operation of Part I of the “Foreign Judgments Act”, no rule in the form of draft Rule 12 need, or should, be made. It would do nothing except to confuse. If and when such countries are brought within the operation of Part I of the Act, it would be a simple matter to enact something like Rule 12.

L. Section 52: Some comments

While considering Rule 5B, I have referred to s 52 of the Act. This section refers to an “application for leave of the Court to appeal or make an application” referred to in s 21(10), s 36(6), s 49(3) (b) or 49(6). I have great difficulty understanding the logic or the policy underlying this section. My difficulties are the following. Firstly, while it makes sense to speak of application for leave of the Court to appeal, it makes no sense at all to speak of application “to make an application”. Secondly, the section lumps together two quite different kinds of leave to appeal. Leave under s 21(10) and 36(6) refers to leave of the High Court to appeal a decision of the High Court to the Court of Appeal. Leave under s 49(3) and (6) refers to leave of the High Court to appeal *to the High Court itself* on a point of law arising out of an arbitrator’s award. Thirdly, in so far as the section seeks to deal with to leave to appeal to the Court of Appeal from a decision of the High Court, it is not at all clear why only s 21(10) and 36(6) are mentioned, when there are so many other sections which provide for such leave, as stated above. Fourthly, sub-section (2) provides for determination of the application or appeal without hearing. The wisdom of this may be open to question, particularly in the context of application for leave to appeal on a question of law arising out an award under s 49. I am not sure whether at this stage of our development, we are ready to have such a system. Such applications may involve complex questions of law. It is incongruous for provide for a norm of no hearing, when other simpler applications are decided with a hearing.

Section 52, together with s 50 and 48 may merit re-examination at the appropriate time. This, however, is a topic for another day.

## **II. Amendments to Order 69A**


1. If the setting aside provisions under section G above are adopted, then similar additions should be made to Order 69A.

2. Amendment to rule 6 (1) (item (c) of the draft): the words “may be made ex parte and” should be added after the word “award” in the *second* line, not the *first* line.

## **III. Annex C**

Annex C sets out my drafting proposals reflecting the foregoing comments.

Date: 27 December 2001

  
.....  
(Warren Khoo)

WK/pk

**Summary of Proposals and Drafting Proposals**

**A. Order 69 – Arbitration Proceedings**

**1. Rule 2**

A.1. Rule 2(1), item (f): add (b) to 49(3), to read 49(3)(b).

A.2. Rule 2(1), concluding words: delete “to a single Judge in Court”.

A.3. Add as Rule 2(2): “An appeal with the agreement of all parties to the arbitration proceedings under s 49(3)(a) of the Act shall be made by originating motion.”

A.4. Renumber Rule 2(2) as 2(3), and start with “Notwithstanding paragraphs (1) and (2), the Court shall....”

A.5. Delete Rule 2(3).

A.6. Delete Rule 2(4).

A.7. Delete Rule 2(5).

**2. Rule 5 : Delete and substitute the following:**

**Proposed Rule 5**

***Appeals on a question of law arising out of an award***

5. (1) The notice of motion by way of an appeal under s 49(3)(a) of the Act brought with the agreement of all parties to the arbitration proceedings on a question of law arising out of an award shall :

(a) state that the appeal is being brought by such agreement;

(b) identify the award; and

(c) state as briefly as possible the questions of law which will be raised in the appeal.

(2) The notice of motion shall be served with:

- (a) the Appellant's Case in form as provided in paragraph (3); and
- (b) a core bundle of documents in form as provided in paragraph (7).

(3) The Appellant's Case shall contain a statement in numbered paragraphs of each ground on which it is sought to contend that the tribunal erred in law. Reference shall be made to the paragraph or passage of the award where each alleged error is to be found.

(4) There must be at least 35 clear days between service of notice of a motion and the day named in the notice for hearing the motion.

(5) Within 28 days after being served with the notice of motion, the Respondent shall file a Respondent's Case, which shall contain a statement in numbered paragraphs of the grounds on which the Respondent contends that the relevant part or parts of the award should be upheld. Where the Respondent contends that the relevant part or parts of the award should be upheld on grounds not or not fully expressed in the award, such grounds should be included in the Respondent's Case.

(6) Any statement provided under paragraphs (3) and (5) should contain specific reference to any authority relied on.

(7) The core bundle of documents shall contain:

- (a) a copy of the award;
- (b) other documents that are relevant to any question in the appeal or which are referred to in the Appellant's Case.
- (c) an index of the documents included therein.

(8) If the Respondent intends to refer to any document in the Respondent's Case and such document is not included in the core bundle, the Respondent shall file, at the same time as he files his Case, a supplemental core bundle which shall contain such documents and an index.

(9) The appellant must at the time of filing the notice of motion deposit a sum of \$5,000 or such other sum as may be fixed from time to time by the Chief Justice by way of security for the respondent's costs of the appeal in the Registry or with the Accountant-General and obtain a certificate in Form 114B.

(10) [Withdrawal of appeal – Adopt Order 57 Rule 11 of RSC]

### 3. Rule 5A: Delete and substitute the following:

#### Proposed Rule 5A

##### *Applications for leave to appeal on a question of law arising out of an award*

5A---- (1) The notice of originating motion in respect of an application for leave under s 49 (3) (b) of the Act to appeal on a question of law arising out of an award shall be for an order that such leave be granted and for an order that, in the event that leave is granted, the appeal as set out in the applicant's proposed Case (as hereinafter provided) be determined.

(2) The notice of motion shall identify the award and state as briefly as possible the questions of law which will be raised in the appeal.

(3) The notice of motion shall be served with:

- (a) the affidavit in support of the application as provided in paragraph (4);
- (b) the Applicant's Proposed Case as provided in paragraph (5);
- (c) a core bundle of documents in form as provided in paragraph (9).



(4) The affidavit in support of the application for leave to appeal shall set out any evidence relied on by the applicant for the purpose of satisfying the Court of the matters mentioned in section 49(5) of the Act and for satisfying the Court that leave should be granted.

(5) Rule 5(3) (Appellant's Case) shall apply to the Applicant's Proposed Case as it applies to the Appellant's case therein.

(6) Rule 5 (4) shall apply to the application for leave as it applies to the appeal therein.

(7) Within 28 days after being served with the notice of motion, the respondent, if he wishes to contest the application for leave, shall file and serve an affidavit stating the grounds on which the respondent opposes the grant of leave and setting out any evidence relied on by the respondent relating to the matters mentioned in section 49(5) of the Act.

(8) Within 28 days after being served with the notice of motion the respondent shall also file and serve the Respondent's Proposed Case.

(9) Rule 5 (5) (Respondent's Case), Rule 5 (6) (reference to authority), Rule 5 (7) (core bundle), Rule 5 (8) (supplemental core bundle), Rule 5 (9) (security for costs) and Rule 5 (10) (withdrawal of appeal) shall apply to an application under this Rule as they apply to an appeal under that rule.

(10) Where leave to appeal is granted by the Court, the hearing of the substantive appeal may be proceeded with forthwith on the basis of the Cases and materials filed.

4. New rule for setting aside an award: Insert the following:

Proposed Rule 5A Bis

Application to set aside an award

5A Bis –(1) The notice of motion for setting aside an award under section 48 of the Act must state the grounds on which it is contended that the award should be set aside.

(2) The affidavit in support of the application must have exhibited to it a copy of the award and must set out any evidence relied on by the applicant. The affidavit must be served with the notice of motion.

(3) Within 14 days after being served with the notice of motion, the respondent, if he wishes to resist the application, must file an affidavit showing the grounds on which the respondent opposes the application.

(4) The Court may determine the application summarily where the question at issue between the parties is a question of law and the facts are not disputed, or direct an issue of fact to be tried and make such other directions for the disposal of the application as it thinks fit.

5. Rule 5B: Delete and substitute the following:

Proposed Rule 5B

*Leave to appeal to Court of Appeal*

5B. An application for leave to appeal against a decision of the Court to the Court of Appeal must be made within 7 days of the decision of the Court, or, in the event leave is refused by the Court, to the Court of Appeal within 7 days of the refusal.

6. Rule 7(1)(a): Substitute “under this Order” for “under the Act” .

7. Rule 12: Delete Rule 12 and substitute the following:

*Proposed Rule 12A*

*Registration in High Court of Commonwealth awards*

12.--(1) Where an award is made in proceedings on an arbitration in the United Kingdom of Great Britain and Northern Ireland or other territory to which section 5 of the Reciprocal Enforcement of Commonwealth Judgments Act (Chapter 264) applies, then, if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place, Order 67, in so far as it applies to a judgment obtained in a superior court of the United Kingdom and other territory to which section 5 of that Act applies, shall apply, mutatis mutandis, to the award as it applies in relation to a judgment given by a superior court in the place where the award was made.

(2) The affidavit required by Order 67 Rule 3 must state (in addition to the other matters required by that Rule) that to the best of the information or belief of the deponent the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place, giving particulars of such information and grounds for such belief.

**B. Order 69A – International Arbitration Act**

1. Add a rule (possibly 6A) similar to the proposed Order 69 and 5A Bis above.
2. Rule 6 (1): Add “may be made ex parte and” immediately after the words “foreign award”.

c

## Practice Note

d QUEEN'S BENCH DIVISION (COMMERCIAL COURT)

BINGHAM J

3 MAY 1985

*Arbitration – Award – Leave to appeal against award – Practice – Commercial Court – Notice of motion – Contents of notice of motion – Statement of grounds of appeal – Documents – Authorities – Arbitration Act 1979, s 1(2).*

**BINGHAM J** gave the following direction at the sitting of the court.

1. Every notice of motion by way of appeal against an arbitration award under s 1(2) of the Arbitration Act 1979 shall contain a succinct statement in numbered paragraphs of each ground on which it is sought to contend that the arbitral tribunal erred in law.
- f Reference shall be made to the paragraph or passage of the award and reasons where each alleged error is to be found. A copy of the award and reasons forming part of the award and any documents expressly incorporated in the award or such reasons shall accompany the notice of motion when the same is served and entered, unless the appeal arises from a minor part only of the award and reasons, in which case the relevant extracts shall accompany the notice of motion.
- g 2. Any respondent to such a motion by way of appeal who contends that the award should be upheld on grounds not or not fully expressed in the award and reasons should provide to the applicant and to the court, not later than two clear days before the application for leave is listed for argument, a succinct statement of such grounds in numbered paragraphs, with reference where appropriate to any relevant paragraph or passage of the award and reasons.
- h 3. Any statement provided under paras 1 and 2 should contain specific reference to any authority relied on. A copy should be provided with the statement of any authority not contained in the Law Reports, the Weekly Law Reports, the All England Law Reports, Lloyd's Law Reports or the English Reports.
4. Where the applicant contends that any question of law arising out of an award concerns a term of contract or an event which is not a one-off clause or event, he shall serve on the respondent with his notice of motion and lodge with the court an affidavit setting out the facts relied on in support of his contention. A respondent who challenges that contention shall provide to the applicant and to the court, not later than two clear days before the application is listed for argument, an affidavit setting out the facts on which he relies.

N P Metcalfe Esq Barrister.

