



ATTORNEY-
GENERAL'S
CHAMBERS

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

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

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

(LRRD No. 6/2002)

REVIEW ON RULES OF COURT RELATING TO ARBITRATION

(Supplementary Report)

The LRRD team for this project comprises:

Charles Lim Aeng Cheng - Head LRRD
Chiu Hse Yu - State Counsel (until 31 January 2002)
Wendy Chang - State Counsel (from 1 April 2002)
Yvette C Rodrigues - Senior Legal Executive

Law Reform Consultant:

Lawrence Boo, Arbitration Chambers

External party consulted:

Justice (Retired) Warren Khoo, Chairman, Singapore International Arbitration Centre

The following persons have rendered invaluable assistance to the team:

Editorial and publication

Jefry Mohamad - Corporate Support Officer
Noraini Jantan - Corporate Support Officer

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

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

(Supplementary Report)

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Introduction	1	123
Order 69 – Arbitration Proceedings	2	125
<i>Preliminary question of law</i>	2.1	125
<i>Application to set aside award</i>	2.3	125
<i>Appeals on a question of law arising out of an award</i>	2.5	125
<i>Applications for leave to appeal on a question of law arising out of an award</i>	2.7	126
<i>Leave to appeal to Court of Appeal</i>	2.11	127
<i>Service out of jurisdiction of summons, notice, etc.</i>	2.13	127
<i>Savings provision</i>	2.16	127
<i>Renumbering of rules</i>	2.18	128
Order 69A – International Arbitration	3	129
<i>Matters for a Judge in Court</i>	3.1	129
<i>Renumbering of rules</i>	3.3	129
Appendix B – Court Fees	4	130
Annex A - Rules of Court (Amendment No. 2) Rules 2002		
Annex B - Updated Table of Derivatives		
Annex C - Updated Explanatory Commentary on Rules of Court Relating to Arbitration		

REVIEW ON RULES OF COURT RELATING TO ARBITRATION

(Supplementary Report)

PART 1 INTRODUCTION

- 1.1 On the enactment of the Arbitration Act 2001¹ (“the Act”) and the International Arbitration (Amendment) Act 2001,² 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 study led to the publication of a “Report on Review of Rules of Court Relating to Arbitration” (“Original Report”).³ The Original Report recommended (1) the repeal and re-enactment of Order 69 on Arbitration Proceedings; and (2) specific amendments to Order 69A on International Arbitration. A draft of a new Order 69 and proposed amendments to Order 69A (“draft Rules”) were included in the Original Report. The draft Rules were prepared in consultation with Mr Warren Khoo, Chairman, Singapore International Arbitration Centre (SIAC) and retired Judge of the Supreme Court and Mr Lawrence Boo, Law Reform Consultant.
- 1.2 The Original Report was considered by the Working Party on Rules of Court chaired by the Honourable Justice of Appeal L. P. Thean (as he then was). At a meeting on 5 February 2002 with Mr Warren Khoo, Mr Lawrence Boo and Mr Charles Lim in attendance, the Working Party deliberated on the draft Rules. On 7 February 2002, Mr Khoo recommended amendments to the draft Rules. On 8 February 2002, LRRD forwarded a revised draft of the amendment Rules to the Working Party incorporating Mr Khoo’s amendments. The Working Party accepted the revised draft with some changes.
- 1.3 On 26 February 2002, LRRD forwarded a further revised draft of the amendment Rules incorporating the Working Party’s amendments (“final revised draft Rules”) to the Registrar of Supreme Court for onward transmission to the Rules Committee for its approval. The final revised draft Rules were submitted to the Rules Committee together with an explanatory commentary prepared by LRRD. The final revised draft Rules were approved by the Rules Committee on 26 March 2002.

¹ Act 37 of 2001.

² Act 38 of 2001.

³ LRRD No. 2/2002, on 23 January 2002.

- 1.4 On 1 April 2002, the changes made to the Rules of Court as approved by the Rules Committee were gazetted as the Rules of Court (Amendment No. 2) Rules 2002 (S150/2002) (“approved Rules”) to come into force on 15 April 2002. This Supplementary Report highlights and explains the main differences between the approved Rules and the draft Rules as contained in the Original Report. Rules 2, 5, 6(a) and (b) of the Rules of Court (Amendment No. 2) Rules 2002 contain other amendments not relevant for purposes of this Supplementary Report. For ease of reference, the approved Rules and updated table of derivatives are included in this Supplementary Report at Annexes A and B respectively. An updated explanatory commentary on the relevant provisions of the Rules is set out at Annex C.

PART 2

ORDER 69 — ARBITRATION PROCEEDINGS

Preliminary question of law (Original Report para 3.10 to 3.12)

- 2.1 In the draft Rules, it was proposed that where an application under section 45 of the Act to determine any question of law arising in the course of arbitral proceedings 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.
- 2.2 In the approved Rules, it is provided that the affidavits filed by the parties shall set out any evidence relied on by them in support of their contention that the Court should, or should not, *allow* the application. This change was recommended by the then Chairman of the Working Party, Justice L. P. Thean who felt that the word “allow” was a more appropriate term.

Application to set aside an award (Original Report para 3.17)

- 2.3 In the draft Rules, the Court in an application to set aside arbitral awards 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, or make such other directions for the disposal of the application as the Court thinks fit.
- 2.4 As recommended by the Working Party, this provision is omitted in the approved Rules as it is not necessary and may give an erroneous impression that the Court can direct an issue of fact to be tried by the arbitrator.

Appeals on a question of law arising out of an award (Original Report para 3.13 to 3.14)

- 2.5 The draft Rules provided for the service of the Appellant’s Case and a core bundle of documents together with the notice of motion. The respondent must then file and serve a Respondent’s Case within 28 days after being served with the notice of motion. The draft Rules also provided that 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.
- 2.6 The Working Party was of the view that the appellant should be given more time to prepare his submissions. Therefore, in the approved Rules, the filing of the Appellant’s Case is separate from the filing of the notice of motion. The Appellant’s Case and core bundle of documents must be served on the

respondent within 28 days after the notice of motion is filed. The respondent must then file and serve a Respondent's Case within 28 days after being served with the Appellant's Case and core bundle of documents. As recommended by the Working Party, the approved Rules further provide that the hearing date shall not be earlier than 3 months from the date of the filing of the notice of motion.

Applications for leave to appeal on a question of law arising out of an award
(Original Report para 3.15 to 3.16)

- 2.7 In the draft Rules, it was recommended that the affidavit in support of the application for leave to appeal, the Applicant's Proposed Case and a core bundle of documents be served together with the notice of motion. Within 28 days after being served with the notice of motion, the respondent, if he wishes to contest the application for leave, must file and serve an affidavit stating the grounds on which he opposes the grant of leave and setting out any evidence relied on by him together with the Respondent's Proposed Case.
- 2.8 In the approved Rules, for the same reasons as stated in para 2.6 above, the filing of the Applicant's Proposed Case is separate from the filing of the notice of motion. The approved Rules provide that the affidavit in support of the application for leave to appeal, the Applicant's Proposed Case and the core bundle of documents must be served on the respondent within 28 days after the notice of motion is filed. If the respondent wishes to contest the application for leave, he must file and serve an affidavit within 28 days after being served with the notice of motion and the affidavit in support of the application for leave. He must also file and serve the Respondent's Proposed Case within 28 days after being served with the Applicant's Proposed Case and the core bundle of documents. As in appeals on a question of law arising out of an award, the hearing date shall not be earlier than 3 months from the date of the filing of the notice of motion.
- 2.9 As recommended by Mr Khoo, the approved Rules provide for the application of Order 69 Rule 6(6) to applications for leave to appeal on a question of law arising out of an award. 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 Proposed Case. This is in line with the UK position.
- 2.10 As recommended by the Working Party, the approved Rules further provide that where leave to appeal is refused by the Court, the parties may apply for refund of any fee paid for the Proposed Cases in accordance with Order 91, Rule 3. Such an application must be made within 3 months after the date of such refusal.

**Leave to appeal to Court of Appeal
(Original Report para 3.18)**

- 2.11 The draft Rules provided that an application for leave to appeal to the Court of Appeal against a decision of the High Court must be made within 7 days of the decision of the High Court. In the event that leave is refused by the High Court, the application for leave to appeal to the Court of Appeal must be made to the Court of Appeal within 7 days of the refusal.
- 2.12 To ensure that the Rules are not *ultra vires* the Act, the Working Party recommended that the relevant provision in the draft Rules be redrafted. As the relevant sections in the Act provide that leave of the High Court, and not the Court of Appeal, must be obtained in respect of applications to appeal against the decision of the High Court, Mr Khoo recommended that the Rules provide that an application for leave to appeal to the Court of Appeal against a decision of the High Court must be made to the High Court within 7 days of the decision of the High Court.

**Service out of jurisdiction of summons, notice, etc.
(Original Report para 3.20)**

- 2.13 The draft Rules provided for the application of Order 11, Rules 3, 4 and 6 to an originating summons or notice of an originating motion under Order 69, or an order made on such a summons or motion as they apply in relation to a writ.
- 2.14 As Order 11 relates to all originating processes and not just writ, the approved Rules provide for the application of Order 11, Rules 3, 4 and 6 to an originating summons or notice of an originating motion under Order 69, or an order made on such a summons or motion as they apply in relation to *an originating process*. This change was recommended by Mr Khoo.
- 2.15 The same change was made to the provision on enforcement of arbitration awards where there is also a reference to Order 11, Rules 3, 4 and 6.

**Savings provision
(Original Report para 5.1)**

- 2.16 The draft Rules contained a savings provision that preserved the application of the repealed Order 69 to applications before the Court arising out of arbitration proceedings to which the repealed Arbitration Act (Cap.10) applies.
- 2.17 In the approved Rules, it is provided that the repealed Order 69 continues to apply to arbitration and other proceedings to which the repealed Arbitration Act applies, except that Rule 15 of the approved Rules shall apply to arbitration awards to which the Reciprocal Enforcement of Commonwealth

Judgements Act (Cap. 264) applies, whether the award is made before or after the date of commencement of the approved Rules. This change was recommended by Mr Khoo. Mr Khoo was of the view that it was necessary to provide specially for Rule 15 relating to the enforcement of Commonwealth awards as it did not relate to arbitration proceedings under the new or repealed Act. Further, the inclusion of the words “other proceedings” in the savings provision of the approved Rules was intended to cover referee proceedings in the repealed Order 69 Rules 8 to 13 as these could not properly be referred to as arbitration proceedings.

Renumbering of rules

- 2.18 Rules 5, 6 and 7 of the draft Order 69 and the savings provisions in rule 4 of the draft Rules included in the Original Report were renumbered as Rules 6, 7, 5 and 16 of the new Order 69 respectively in the approved Rules.

PART 3
ORDER 69A — INTERNATIONAL ARBITRATION

Matters for a Judge in Court
(Original Report para 4.3)

- 3.1 In the draft Rules, it was provided that the Court may determine an application under Order 69A, Rule 2 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.
- 3.2 For consistency with the Working Party's recommendation with respect to applications to set aside an award (see para 2.4 above), this provision is omitted in the approved Rules.

Renumbering of rules

- 3.3 Rule 2(4E) of Order 69A in the draft Rules included in the Original Report was renumbered as Rule 2(4D) in the approved Rules.

PART 4
APPENDIX B – COURT FEES

- 4.1 As recommended by the Working Party, the approved Rules contain a new table of fees set out in item 70. The new fees relate to the filing of an Appellant's Case or Proposed Case, the filing of a Respondent's Case or Proposed Case and the filing of an Amended Appellant's Case, an Amended Respondent's Case or an Amended Proposed Case under Order 69. The new fees follow the scale applicable for appeals to the High Court under Order 55D.

S 150

Annex A

SUPREME COURT OF JUDICATURE ACT
(CHAPTER 322)

RULES OF COURT (AMENDMENT NO.2) 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 No.2) Rules 2002 and shall come into operation on 15th April 2002.

Amendment of Order 59

2. Order 59 of the Rules of Court (R 5) (referred to in these Rules as the principal Rules) is amended by deleting Rules 34, 35 and 36 and substituting the following Rules:

“Application to Judge for review (O. 59, r. 34)

34.—(1) Any party to any taxation proceedings who is dissatisfied with the allowance or disallowance in whole or in part of any item by the Registrar, or with the amount allowed by the Registrar in respect of any item, may apply to a Judge to review the taxation as to that item or part of an item, as the case may be.

(2) An application under this Rule for review of the Registrar’s decision may be made at any time within 14 days after that decision, or such longer time as the Registrar or the Court at any time may allow.

(3) An application under this Rule shall be made by summons and shall, except where the Judge thinks fit to adjourn into Court, be heard in Chambers.

(4) An application under this Rule for review of the Registrar’s decision in respect of any item shall not prejudice the power of the Registrar under Rule 15 to issue an interim certificate in respect of the items of his decision which are not the subject of the review.

(5) In this Rule and Rule 35, “Judge” means a Judge of the High Court or a District Judge in person.

(6) This Rule and Rule 35 shall apply to taxation proceedings in which the bills of costs are filed on or after the date of commencement of the Rules of Court (Amendment No. 2) Rules 2002.

Review of Registrar’s decision by Judge (O. 59, r. 35)

35.—(1) Unless the Judge otherwise directs, no further evidence shall be received on the hearing of the review of the Registrar’s decision by the Judge,

but except as aforesaid, on the hearing of the review, the Judge may exercise all such powers and discretion as are vested in the Registrar in relation to the subject-matter of the application.

(2) At the conclusion of the review, the Judge may make such order as the circumstances require, and in particular may order the Registrars certificate to be amended or, except where the dispute as to the item under review is as to amount only, order the item to be remitted to the Registrar for taxation.”

Deletion and substitution of Order 69

3. Order 69 of the principal Rules is deleted and the following Order substituted therefor:

“ORDER 69

ARBITRATION PROCEEDINGS

Interpretation (O. 69, r. 1)

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

Matters for Judge in Court (O. 69, 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;
- (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 the other 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.

Matters for Judge in Chambers or Registrar (O. 69, 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 and expenses;
- (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.

Preliminary question of law (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, allow the application.

Application to set aside an award (O. 69, r. 5)

5.—(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;
- (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.

**Appeals on a question of law arising out of an award
(O. 69, r. 6)**

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

- (a) state that the appeal is being brought with 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 hearing date of the notice of motion shall not be earlier than 3 months from the date of the filing of the notice of motion.

(3) Within 28 days after the notice of motion is filed, the appellant shall serve on the respondent —

- (a) the Appellant's Case in the form as provided in paragraph (4); and
- (b) a core bundle of documents in the form as provided in paragraph (8).

(4) 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; and
- (b) make references to the paragraph or passage of the award where each alleged error is to be found.

(5) Within 28 days after being served with the Appellant's Case and the core bundle of documents, the respondent shall file and serve 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 (4) 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.

Applications for leave to appeal on a question of law arising out of an award (O. 69, r. 7)

7.—(1) The notice of 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 a further order that, in the event that leave is granted, the appeal be heard and 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) Within 28 days after the notice of motion is filed, the applicant shall serve on the respondent —

- (a) the affidavit in support of the application for leave as provided in paragraph (4);
- (b) the Applicant's Proposed Case as provided in paragraph (6);
- (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 6(2) (return date) shall apply to the application for leave as it applies to the appeal therein.

(6) Rule 6(4) (Appellant's Case) shall apply to the Applicant's Proposed Case as it applies to the Appellant's Case therein.

(7) Within 28 days after being served with the notice of motion and the affidavit in support of the application, 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 Applicant's Proposed Case and the core bundle of documents, the respondent shall also file and serve the Respondent's Proposed Case.

(9) Rule 6(5) (Respondent's Case), Rule 6(6) (grounds not expressed in award), Rule 6(7) (reference to authority), Rule 6(8) (core bundle), Rule 6(9) (supplemental core bundle), Rule 6(10) (security for costs) and Rule 6(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 Proposed Cases and documents filed.

(11) Where leave to appeal is refused by the Court, notwithstanding Order 91, Rule 3(2)(b), the parties may apply for refund of any fee paid for the Proposed Cases in accordance with Order 91, Rule 3 within 3 months after the date of such refusal.

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

8. An application under the Act for leave to appeal against a decision of the Court to the Court of Appeal must be made to the Court within 7 days of the decision of the Court.

Extension of time: applications under section 10 of the Act (O. 69, r. 9)

9. An application for an order for extension of time 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)

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 an originating process.

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

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)

12. Order 38, Rules 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 shall, with the necessary modifications, 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)

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 of the Act or the applicable rules adopted in the arbitration on which the applicant relies.

Enforcement of arbitration awards (O. 69, r. 14)

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 an 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 residence 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 granting 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 an originating process.

(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 the 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)

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.

Saving provisions

16.—(1) This Order (except Rule 15 thereof) applies to or in relation to arbitration proceedings to which the Arbitration Act 2001 (Act 37 of 2001) applies.

(2) Order 69 (except Rule 6 thereof) in force immediately before the appointed day shall continue to apply to or in relation to arbitration and other proceedings to which the repealed Arbitration Act (Chapter 10, 1985 Ed.) applies.

(3) Rule 15 of this Order shall apply to arbitration awards, whether made before or after the appointed day to which the Reciprocal Enforcement of Commonwealth Judgments Act (Chapter 264) applies.

(4) In this Rule, “appointed day” means the date of commencement of the Rules of Court (Amendment No. 2) Rules 2002.”.

Amendment of Order 69A

4. Order 69A of the principal Rules 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;

(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) 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.”;

(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”.

Amendment of Order 90

5. Order 90 of the principal Rules is amended —

(a) by deleting “\$100” in Rule 6(1)(b) and substituting “\$30,000”;

(b) by deleting paragraph (2) of Rule 6 and substituting the following paragraph:

“(2) Such money shall be deemed not to be placed on deposit when the amount is reduced below \$30,000.”;

- (c) by deleting paragraph (4) of Rule 7 and substituting the following paragraph:
- “(4) Interest which has accrued for or during the year ending on the 31st day of December in every year, on money then on deposit must, on or before 15 days thereafter following, be placed by the Accountant-General to the credit to which such money is standing.”;
- (d) by deleting “\$100” in the 3rd line of Rule 7(7) and substituting “\$30,000”; and
- (e) by deleting the words “half-yearly” in the last line of Rule 7(7) and substituting the word “yearly”.

Amendment of Appendix B

6. Appendix B of the principal Rules is amended —

- (a) by inserting “150” in the column under “*District Court*” in item 32;
- (b) by inserting “80” in the column under “*Magistrate’s Court*” in item 32; and
- (c) by inserting, immediately after item 69D, the following item:

“No.	Items	Fees			<i>Document on which stamp is to be affixed and remarks</i>
		<i>Supreme Court</i>	<i>District Court</i>	<i>Magistrate’s Court</i>	
		\$	\$	\$	
	Appeals to High Court				
70.—	(1) On filing an Appellant’s Case or Proposed Case (O. 69)	600	—	—	The Case or Proposed Case.
	(2) On filing a Respondent’s Case or Proposed Case (O. 69)	300	—	—	The Case or Proposed Case.
	(3) On filing an Amended Appellant’s Case, an Amended Respondent’s Case or an Amended Proposed Case (O. 69)	200	—	—	The Amended Case or Amended Proposed Case.”.

[G. N. Nos. S 186/99; S 346/99; S 551/99; S 613/2000; S 306/2001; S 612/2001; S 142/2002]

Made this 26th day of March 2002.

YONG PUNG HOW
Chief Justice.

CHAN SEK KEONG
Attorney-General.

CHAO HICK TIN
Judge of Appeal.

LAI KEW CHAI
Judge.

JUDITH PRAKASH
Judge.

TAN LEE MENG
Judge.

WOO BIH LI
Judicial Commissioner.

RICHARD R. MAGNUS
Senior District Judge.

LAU WING YUM

District Judge.

MICHAEL KHOO KAH LIP

Advocate and Solicitor.

R.E. MARTIN

Advocate and Solicitor.

[RSCS R7/7; AG/LRRD/36/2001]

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

Annex B

TABLE OF DERIVATIVES

Rules of Court (Amendment No. 2) Rules 2002		Derivations	
Rule Heading	Order & rule	Rules of Court (R 5)	UK Rules of the Supreme Court (Amendment) 1996
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 Original 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
Application to set aside an award	O. 69, r. 5	—	—
Appeals on a question of law arising out of an award	O. 69, r. 6	O 55D (modified by Mr Warren Khoo and further amended by Rules of Court Working Party)	English Practice Note 1985
Applications for leave to appeal on a question of law arising out of an award	O. 69, r. 7	O 55D (modified by Mr Warren Khoo and further amended by Rules of Court Working Party)	English Practice Note 1985
Leave to appeal to Court of Appeal	O. 69, r. 8	O. 56, r. 3 & O. 69, r. 4(2) (modified by Mr Warren Khoo)	—
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	—

Rules of Court (Amendment No. 2) Rules 2002		Derivations	
Rule Heading	Order & rule	Rules of Court (R 5)	UK Rules of the Supreme Court (Amendment) 1996
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	—
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 (amended by Mr Warren Khoo)	—
Amendment of Appendix B	New item 70	Inserted by Rules of Court Working Party	
INTERNATIONAL ARBITRATION			
Matters for a Judge in Court	O. 69A, r. 2(4A) to (4C)	—	—
	2(4D)	O.56, r. 3	—

Annex C

UPDATED EXPLANATORY COMMENTARY ON RULES OF COURT RELATING TO ARBITRATION

ORDER 69 – ARBITRATION PROCEEDINGS

Order 69, Rule 1

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

Order 69, Rule 2

- 1.2 Order 69, Rule 2 is largely based on 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, this Rule sets out the various applications that may be made by originating motion.

- 1.3 These are applications:

- (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.

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

- 1.5 Rule 2 further allows any party to request that the matter be heard in chambers or in camera.

Order 69, Rule 3

- 1.6 Order 69, Rule 3 is based on the repealed Order 69, Rule 3 as well as Order 69A, Rule 3. It sets out the types of 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.

- 1.7 These applications are applications:
- (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.
- 1.8 In urgent cases, the above applications may be made *ex parte*.

Order 69, Rule 4

- 1.9 Order 69, Rule 4 deals specifically with applications under section 45 of the Act to determine any question of law arising in the course of arbitration proceedings. This Rule is adopted from the UK Order 73, rule 19 and the repealed Order 69, Rule 4. As the Act requires such applications to be made only upon the 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.
- 1.10 If the application is made with the arbitral tribunal's permission but without the agreement of the parties, the affidavits filed by the parties must set out all evidence relied on by the parties in support of their contention that the Court should or should not allow the application.

Order 69, Rule 5

- 1.11 Order 69, Rule 5 sets out a detailed procedure for applications to set aside arbitral awards. The notice of motion for setting aside an award must state the grounds on which it is contended that the award should be set aside. The notice of motion must be accompanied by an affidavit. The affidavit must have exhibited to it a copy of the arbitration agreement, the award or any other document relied on by the applicant and must set out any evidence relied on by the applicant. 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 he opposes the application.
- 1.12 Similar provisions have been inserted in Order 69A, Rule 2(4A) to (4D).

Order 69, Rule 6

- 1.13 Order 69, Rule 6 deals with appeals under section 49(3)(a) of the Act brought with the agreement of all the parties to the arbitration proceedings on a question of law arising out of an award. It imports and adopts 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.
- 1.14 The appeal must be filed by way of a notice of motion. Within 28 days after the notice of motion is filed, the appellant must serve on the respondent the Appellant's Case and a core bundle of documents. Within 28 days after being served with the Appellant's Case and the core bundle of documents, the respondent must file and serve a Respondent's Case. 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 must file a supplemental core bundle at the same time as he files the Respondent's Case.
- 1.15 The Rule provides for the deposit by the appellant of a sum as security for the respondent's costs of the appeal at the time of filing the notice of motion. Further, the hearing date of the notice of motion must not be earlier than 3 months from the filing of the notice of motion.
- 1.16 The Rule also provides for the application of Order 55D, Rule 10, with the necessary modifications, to the withdrawal of an appeal.

Order 69, Rule 7

- 1.17 Order 69, Rule 7 deals with applications for leave under section 49(3)(b) of the Act to appeal on a question of law arising out of an award. The notice of motion in respect of such applications shall be for two orders: (1) order that leave to appeal be granted; and (2) order that in the event that leave is granted, the appeal be heard and determined.

- 1.18 The procedure for such applications is similar to that for appeals on a question of law arising out of an award as provided in Order 69, Rule 6. Within 28 days after the notice of motion is filed, the applicant must serve on the respondent an affidavit in support of the application for leave, the Applicant's Proposed Case and a core bundle of documents. Within 28 days after being served with the notice of motion and the applicant's affidavit, the respondent, if he wishes to contest the application for leave, must file and serve an affidavit stating the grounds on which he opposes the grant of leave and any evidence relied on by him relating to the matters mentioned in section 49(5) of the Act. Within 28 days after being served with the Applicant's Proposed Case and the core bundle of documents, the respondent must also file and serve the Respondent's Proposed Case and a supplemental core bundle if he intends to rely on a document in the Respondent's Proposed Case which is not found in the core bundle.
- 1.19 The Rule also requires the applicant to deposit a sum as security for the respondent's costs at the time of filing the notice of motion. Further, the hearing date of the notice of motion must not be earlier than 3 months from the filing of the notice of motion.
- 1.20 Once leave to appeal is granted, the substantive appeal can be heard by the same Judge at the same hearing. If leave to appeal is refused, the parties may apply for refund of any fee paid for the Proposed Cases in accordance with Order 91, Rule 3 within 3 months after the date of such refusal.

Order 69, Rule 8

- 1.21 Order 69, Rule 8 provides that an application for leave to appeal to the Court of Appeal against a decision of the High Court must be made to the High Court within 7 days of the decision of the High Court.

Order 69, Rule 9

- 1.22 Order 69, Rule 9 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 order for an extension of time to commence arbitration proceedings to include an application for a declaration that such an order is not needed.

Order 69, Rule 10

- 1.23 Order 69, Rule 10, on service out of the jurisdiction of summons and notices for the purposes of this Order, is based on the repealed Order 69, Rule 5.
- 1.24 Rule 10 provides that service out of the jurisdiction of an originating summons or notice of an originating motion under Order 69 or of any order made on such a summons or motion is permissible with 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.

- 1.25 This Rule also provides for the application of Order 11, Rules 3, 4 and 6 to such summons, notice or order as they apply in relation to an originating process.

Order 69, Rule 11

- 1.26 Order 69, Rule 11 is adopted from Order 73, rule 10 of the UK Rules of the Supreme Court. It allows notice requirements under Order 69 to be sufficiently met by service of the relevant originating process referred to in this Order.

Order 69, Rule 12

- 1.27 Order 69, Rule 12 is adopted from Order 69A, Rule 7. It provides for the application of certain provisions of Order 38, which deals with *subpoena duces tecum* or *ad testificandum*, to subpoenas issued by the Court to compel witnesses to attend or produce documents before an arbitral tribunal.

Order 69, Rule 13

- 1.28 Order 69, Rule 13 is adopted from Order 69A, Rule 5. It 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 an order or direction includes an order or direction for security for costs, discovery of documents, preservation and interim custody of any evidence or property which is the subject matter of the dispute, and taking of samples.

Order 69, Rule 14

- 1.29 Order 69, Rule 14 is adopted from the repealed Order 69, Rule 7 and deals with applications to the Court to enforce arbitral awards.
- 1.30 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 of the affidavit supporting the application.

Order 69, Rule 15

- 1.31 Order 69, Rule 15 is based on the repealed Order 69, Rule 6. It provides for the registration in the High Court of Commonwealth awards for the purposes of enforcement in Singapore.

Order 69, Rule 16

- 1.32 Order 69, Rule 16 consists of savings provisions that preserve the application of the repealed Order 69 to arbitration and other proceedings to which the repealed Arbitration Act applies. However, the new Order 69, Rule 15 shall apply to arbitration awards to which the Reciprocal Enforcement of Commonwealth Judgements Act (Cap. 264) applies, whether the award is made before or after the date of commencement of the new Rules.

ORDER 69A - INTERNATIONAL ARBITRATION

Order 69A, Rule 2

- 2.1 Order 69A, Rule 2 provides for the applications that may be made to a Judge in Court. These applications are to be made by originating motion. The Rule is amended by deleting the words “to a single Judge in Court in Rule 2(1) since originating motions are always heard by a single Judge in open Court, by setting out the requirements of the notice of motion and by providing for the filing of the respondent’s affidavit if he wishes to oppose the application. A provision has also been inserted to allow a party to apply for appeal against a ruling of the Court under section 10 of the Act (on whether the tribunal has jurisdiction) within 7 days of the Court’s ruling.

Order 69A, Rule 3

- 2.2 Order 69A, Rule 3 provides for the applications that may be made to a Judge in Chambers or the Registrar. The Rule is amended by including 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) as one of the applications that may be made to a Judge in Chambers or the Registrar. This is consistent with the provision in Order 69, Rule 3(1)(a).

Order 69A, Rule 6

- 2.3 Order 69A, Rule 6 which deals with the enforcement of arbitral awards is amended to allow applications for leave to enforce such awards to be made *ex parte*. This is consistent with the provision in Order 69, Rule 14(1).

APPENDIX B – COURT FEES

Item 70 – Appeals to High Court

- 3.1 Item 70 sets out new fees for the filing of an Appellant’s Case or Proposed Case, the filing of a Respondent’s Case or Proposed Case and the filing of an Amended Appellant’s Case, an Amended Respondent’s Case or an Amended Proposed Case under Order 69. These new fees follow the scale applicable for appeals to the High Court under Order 55D.