

**SUPREME COURT OF
JUDICATURE ACT**
(CHAPTER 322)

**SUPREME COURT
(PRESIDENTIAL ELECTIONS)
(APPLICATION FOR
AVOIDANCE OF ELECTION)
RULES**

R 7

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**SUPREME COURT OF JUDICATURE ACT
(CHAPTER 322, SECTION 80 AND ARTICLE 93A (3) OF
THE CONSTITUTION OF THE REPUBLIC OF SINGAPORE)**

**SUPREME COURT
(PRESIDENTIAL ELECTIONS)
(APPLICATION FOR AVOIDANCE OF ELECTION)
RULES**

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[1st January 2006]

Citation

1. These Rules may be cited as the Supreme Court (Presidential Elections) (Application for Avoidance of Election) Rules.

Definitions

2. In these Rules, unless the context otherwise requires —

“Act” means the Presidential Elections Act (Cap. 240A);

“application for withdrawal” means an application made to a Judge under rule 22 for leave to withdraw an application under section 71, and “applicant for withdrawal” shall be construed accordingly;

“application under section 71” means an application made to a Judge under section 71 of the Act for the election of a candidate as a President to be declared to be void on any of the grounds specified in that section;

“defendant” means a person in respect of whose election an application under section 71 has been made;

“election” means an election for the purposes of electing the President;

“Election Court” means the Judge presiding at the hearing of an application under section 71;

“Judge” means the Election Judge as defined in section 2 of the Act;

“plaintiff” means a person making an application under section 71;

“Returning Officer” means the Returning Officer appointed under section 3 of the Act.

Manner of making application under section 71

3.—(1) An application under section 71 shall be made by originating summons supported by an affidavit.

(2) In such an application —

- (a) the applicant shall be referred to as the plaintiff; and
- (b) the person in respect of whose election the application is made shall be referred to as the defendant.

(3) The application shall be made by filing it at the office of the Registrar, and the Registrar or the officer of his department with whom the application is filed shall, if required, give a receipt in Form 1 in the Schedule.

Contents and form of supporting affidavit for application under section 71

4.—(1) The affidavit supporting an application under section 71 shall be deposed to by the plaintiff or, where there is more than one plaintiff, by each such plaintiff, and shall state —

- (a) in which of the capacities mentioned in section 73 of the Act the applicant or each of the applicants make the application;
- (b) the date and result of the election; and
- (c) the grounds on which relief is sought, setting out with sufficient particularity the facts relied on by the plaintiff or plaintiffs.

(2) The affidavit shall be divided into paragraphs, each of which, as nearly as may be, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively.

(3) The affidavit shall conclude with a statement setting out particulars of the relief claimed, as, for instance, that some specified person should be declared duly returned or elected, or that the election should be declared void, as the case may be.

(4) An affidavit in Form 2 in the Schedule, or one to the like effect, shall be sufficient.

Evidence not to be stated in originating summons

5. Evidence need not be stated in the originating summons by which the application under section 71 is made, but the Judge may, upon a defendant's application by summons, order such particulars as may be necessary to prevent surprise and unnecessary expense, and to ensure a fair and effectual hearing upon such terms as to costs and otherwise as may be ordered.

Where more than one application is made in relation to same election

6. Where more applications than one are made under section 71 of the Act relating to the same election, all the applications shall be dealt with as one application, so far as the inquiry into the election is concerned.

List of votes objected to where seat claimed by unsuccessful candidate

7.—(1) Where a plaintiff claims the office of President for an unsuccessful candidate on the ground that he had a majority of lawful votes, every plaintiff and defendant shall, not less than 7 days before the day appointed for the hearing, file with the Registrar, and also at the addresses for service (if any) of the plaintiff and defendant, as the case may be, a list of the votes intended to be objected to, and of the heads of objection to each such vote.

(2) The Registrar shall allow inspection of office copies of the lists to all parties concerned.

(3) No evidence shall be given against the admission or rejection of any vote or as to any head of objection not specified in the list referred to in paragraph (1), except by leave of the Judge, upon such

terms as to amendments of the list, postponement of the inquiry, and payments of costs, as may be ordered.

List of objections in recriminatory case

8.—(1) Where an application under section 71 complaining of an undue election and claiming the office of President for some other person is made and the defendant intends to lead evidence to prove that the election of that person was undue, the defendant shall, not less than 7 days before the day appointed for the hearing, file with the Registrar, and also at the addresses for service (if any) of the plaintiff, a list of his objections to the election of that person upon which he intends to rely.

(2) The Registrar shall allow inspection of office copies of the lists to all parties concerned.

(3) No evidence shall be given by a defendant of any objection to a person's election which is not specified in the list referred to in paragraph (1), except by leave of the Judge, upon such terms as to amendments of the list, postponement of the inquiry, and payments of costs, as may be ordered.

Appointment of solicitor

9.—(1) The plaintiff or plaintiffs in an application under section 71 shall file at the office of the Registrar together with the application a written notice, signed by him or them, giving the name of an advocate and solicitor whom he or they authorise to act as his or their solicitor or stating that he or they act for himself or themselves, as the case may be, and in either case giving an address within Singapore at which other notices may be left (referred to in these Rules as the address for service).

(2) If no such written notice is filed or address for service given, then all notices may be given by leaving them at the office of the Registrar.

(3) The person returned as President may, at any time after he is returned, file at the office of the Registrar a written notice, signed by him or on his behalf, appointing an advocate and solicitor to act as his solicitor in case there should be an application under section 71 against him, or stating that he intends to act for himself, and in either

case giving an address within Singapore at which other notices addressed to him may be left (referred to in these Rules as the address for service).

(4) If no such written notice is filed or address for service given, all other notices and proceedings may, unless otherwise provided by these Rules, be given or served by leaving them at the office of the Registrar.

Notice of appointment of solicitor

10. An advocate and solicitor appointed to act for any plaintiff or defendant shall, immediately upon his appointment as such, file written notice of his appointment at the office of the Registrar.

Registrar to keep book with addresses and names of solicitors

11. The Registrar shall cause a book to be kept at his office in which shall be entered all addresses and the names of solicitors given under rule 9, which book shall be open to inspection by any person during the office hours of the Registrar.

Security by plaintiff for cost, etc., of application under section 71

12.—(1) At the time of the filing of the application under section 71, or within 3 days afterwards, security for the payment of all costs, charges and expenses that may become payable by the plaintiff shall be given on behalf of the plaintiff.

(2) Subject to paragraph (3), the security required by this rule shall be an amount of not less than \$10,000.

(3) If the number of charges in any application under section 71 exceeds 2, additional security to an amount of \$5,000 shall be given in respect of each charge in excess of the first 2; and in this paragraph, “charge” means an allegation of the commission of a corrupt practice, an illegal practice or an offence under the Act at the election.

(4) The security required by this rule shall be given by a deposit of money.

(5) If security required by this rule to be provided is not given by the plaintiff, no further proceedings shall be had on the application under section 71, and the defendant may apply by summons to the

Judge for an order directing the dismissal of the application under section 71 and for the payment of the defendant's costs.

(6) The costs of hearing and deciding the defendant's application under paragraph (5) shall be paid as ordered by the Judge, and in default of such order shall form part of the general costs of the application under section 71.

Deposit of security

13.—(1) The deposit of money as security under rule 12 shall be lodged in Court.

(2) The Registrar shall keep a book open to the inspection of all parties concerned, in which shall be entered from time to time the amount of deposit and the application under section 71 to which it is applicable.

Return of money so deposited

14.—(1) Money so deposited as security under rule 12 shall, if and when the deposit is no longer needed for securing payment of such costs, charges and expenses, be returned or otherwise disposed of as justice may require by order of the Judge.

(2) Such order may on application be made upon proof that all just claims have been satisfied or otherwise sufficiently provided for as the Judge may require.

(3) Such order may direct payment either to the party in whose name the money is deposited or to any person entitled to receive the money.

Service of notice and copy of application under section 71 on defendant

15. Notice of the filing of an application under section 71, accompanied by a copy of that application and its supporting affidavit, shall, within 10 days of the filing of the application, be served by the plaintiff on the defendant —

(a) by personal service;

(b) by serving the notice and a copy each of the application and its supporting affidavit on the solicitor appointed by the defendant under rule 9 (3);

- (c) by posting the notice and a copy each of the application and its supporting affidavit by registered post to the address for service given under rule 9 (3) at such time that, in the ordinary course of post, the letter would be delivered within 10 days of the filing of the application; or
- (d) if no solicitor has been appointed under rule 9 (3), by publishing in the *Gazette* or in at least one local newspaper circulating in Singapore a notice stating that an application under section 71 has been filed and that a copy each of that application and its supporting affidavit may be obtained by the defendant on application at the office of the Registrar.

When application under section 71 to be deemed at issue

16. An application under section 71 shall be deemed to be at issue on the expiration of the time limited for the making of such applications.

List of applications under section 71

17.—(1) The Registrar shall make out the list of applications under section 71 stating therein —

- (a) the names of the solicitors of the plaintiffs and defendants appointed under rule 9; and
- (b) the addresses for service of the plaintiffs and defendants.

(2) The list may be inspected at the office of the Registrar at any time during office hours, and shall be affixed for that purpose upon a notice board appropriated to proceedings under the Act, and headed “The Presidential Elections Act (Cap. 240A)”.

Time and place of hearing of application under section 71

18.—(1) The time and place of the hearing of each application under section 71 shall be fixed by the Judge.

(2) Within 14 days after an application under section 71 is at issue, the plaintiff shall apply by summons to the Judge for a time and place to be fixed for the hearing of the application under section 71 and, if the plaintiff fails to do so, any defendant may, within a further period of 14 days, apply in the same manner.

(3) If no application to fix a time and place for the hearing of an application under section 71 is made under paragraph (2), the Registrar shall refer the matter to the Judge who shall thereupon fix a time and place.

(4) The Registrar shall give to every plaintiff and defendant in an application under section 71 not less than 14 days' notice of the time and place fixed for the hearing of the application —

- (a) by letter directed to the address for service of every plaintiff and every defendant; or
- (b) if no such address for service has been given, by notice published in the *Gazette* and in at least one local newspaper circulating in Singapore.

Postponement of hearing

19. The Judge may from time to time, by order made on the application of a party to the application under section 71, postpone the beginning of the hearing of the application under section 71 to such day as he may name; and the order, when made, shall immediately be published by the Registrar in the *Gazette* and in at least one local newspaper circulating in Singapore.

Adjournment and continuation of hearing

20.—(1) No formal adjournment at the hearing of an application under section 71 shall be necessary, but the hearing is to be deemed adjourned, and may be continued from day to day until the inquiry is concluded.

(2) In the event of the Judge who begins the hearing being disabled by illness or otherwise, the Chief Justice may continue the hearing or may nominate another Judge to continue the hearing.

(3) Nothing herein shall prevent the Chief Justice or the Judge so nominated from recalling all or any of the witnesses or taking their evidence afresh.

Amendment of application under section 71

21. Subject to section 77 of the Act, the Judge may, at any time before or at the hearing of an application under section 71, allow the

plaintiff to amend his application on such terms as to costs or otherwise as the Judge thinks fit.

Withdrawal of application under section 71

22.—(1) An application under section 71 shall not be withdrawn without the leave of the Judge; and such leave may be given upon such terms as to the payment of costs or otherwise as the Judge thinks fit.

(2) An application for withdrawal shall be made by summons supported by an affidavit.

(3) Where there are more plaintiffs than one, no application for withdrawal shall be made except with the consent of all the plaintiffs.

Affidavits supporting application for withdrawal

23.—(1) An application for withdrawal shall be supported by affidavits filed by all the parties to the application under section 71 and their solicitors and by the election agents of the parties who were candidates at the election.

(2) Each such affidavit shall state the grounds on which the application for withdrawal is made and —

- (a) that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into in relation to the withdrawal of the application under section 71; or
- (b) where any lawful agreement has been made with respect to the withdrawal of the application under section 71, that agreement.

(3) The Judge may on cause shown dispense with the affidavit of any particular person referred to in paragraph (1) if it appears on special grounds to be just to do so.

Copy of application for withdrawal to be given to defendant

24. The applicant for withdrawal shall, not less than 7 days before the hearing of his application for withdrawal —

- (a) serve on the defendant a copy of his application for withdrawal and the affidavits in support thereof; and

- (b) publish at his own expense a notice in Form 3 in the Schedule in the *Gazette* or in at least one local newspaper circulating in Singapore.

Application to be substituted as plaintiff on withdrawal

25. Within 5 days after the publication of the notice under rule 24 (b) of an application for withdrawal, any person who might have been a plaintiff in respect of the election to which the application under section 71 relates may file a notice in writing, signed by him or on his behalf, with the Registrar, of his intention to apply, at the hearing of the application for withdrawal, to be substituted for the original plaintiff, but the want of that notice in writing shall not defeat his application to be substituted, if in fact made at the hearing.

Time and place of hearing of application for withdrawal

26.—(1) The time and place of hearing an application for withdrawal shall be fixed by the Judge but shall not be less than one week after the application for withdrawal has been filed at the office of the Registrar in accordance with these Rules.

(2) Notice of the time and place appointed for the hearing shall be given to such person (if any) who has given notice under rule 25 of an intention to apply to be substituted as plaintiff in the application under section 71, and otherwise in such manner and at such time as the Judge directs.

Substitution of another plaintiff

27.—(1) On the hearing of the application for withdrawal of an application under section 71, any person who might have been a plaintiff in respect of the election to which the application under section 71 relates may apply to the Judge to be substituted as a plaintiff for the original plaintiff desirous of withdrawing the application under section 71.

(2) The Judge may, if he thinks fit, substitute for the original plaintiff any such person applying under paragraph (1) to be so substituted (referred to hereinafter as the substituted plaintiff); and may further, if the proposed withdrawal is, in the opinion of the Judge, induced by any corrupt bargain or consideration, by order direct that —

- (a) the security given on behalf of the original plaintiff shall remain as security for any costs that may be incurred by the substituted plaintiff; and
- (b) to the extent of the sum named in the security the original plaintiff shall be liable to pay the costs of the substituted plaintiff.

(3) If no such order is made with respect to the security given on behalf of the original plaintiff, security to the same amount as would be required in the case of a new application under section 71, and subject to the like conditions, shall be given by or on behalf of the substituted plaintiff within 3 days after the order of substitution, and he shall proceed no further with the application under section 71 until the security is given.

(4) Subject to paragraphs (1), (2) and (3), a substituted plaintiff shall stand in the same position as nearly as may be, and be subject to the same liabilities as the original plaintiff.

(5) If the application under section 71 is withdrawn, the plaintiff shall be liable to pay the costs of the defendant.

Non-abatement of application under section 71 by reason of vacation of office of President

28. An application under section 71 shall not be abated by reason only of the vacation of office of President by the person whose election to such office is the subject of the application under section 71, and in the event of such vacation of office, the application under section 71 shall be heard or continued to be heard and determined as though such office had not been vacated.

Abatement of application under section 71 by death

29.—(1) An application under section 71 shall be abated by the death of a sole plaintiff or the survivor of several plaintiffs.

(2) The abatement of an application under section 71 shall not affect the liability of the plaintiff or of any other person to the payment of costs previously incurred.

Application to be substituted as plaintiff on abatement

30.—(1) Where an application under section 71 is abated by the death of a sole or surviving plaintiff, the solicitor acting for the deceased plaintiff in the proceedings at the date of his death or, if the deceased plaintiff had no such solicitor, any defendant learning of his death, shall —

- (a) give notice thereof in Form 4 in the Schedule to the Registrar;
- (b) where the notice is given by the solicitor of the deceased plaintiff, serve a copy of such notice on the defendant; and
- (c) publish at his own expense the notice in the *Gazette* or in at least one local newspaper circulating in Singapore.

(2) Within one month from the day of the publication of a notice of abatement of an application under section 71 in the *Gazette* or a local newspaper, or such further time as upon consideration of any special circumstances the Judge may allow, any person who might have been a plaintiff in respect of the election to which the application under section 71 relates may apply by summons to the Judge to be substituted as a plaintiff.

(3) The Judge may, if he thinks fit, substitute as a plaintiff any such applicant who is desirous of being substituted and on whose behalf security to the same amount is given as is required in the case of a new application under section 71.

On death, resignation, or notice not to oppose of defendant, application under section 71 to continue

31.—(1) If before the hearing of an application under section 71 a defendant dies or resigns, or files a notice in writing with the Election Court that he does not intend to oppose the application, the application shall not be abated but shall continue whether or not any person applies to be admitted as defendant as hereinafter provided.

(2) A defendant who does not intend to oppose the application under section 71 shall, not less than 7 days before the day appointed for hearing (exclusive of the day of filing the notice), file a written notice under his hand to that effect at the office of the Registrar.

(3) Notice of the fact that a defendant has died, or resigned, or that the defendant has filed a notice that he does not intend to oppose the

application under section 71, shall be published by the Registrar in the *Gazette* or in at least one local newspaper circulating in Singapore.

(4) Within 10 days after the notice in paragraph (3) has been published in the *Gazette* or a local newspaper, or such further time as the Judge may allow, any person who might have been a plaintiff in respect of the election to which the application under section 71 relates may apply by summons to the Judge to be admitted as a defendant to oppose the application under section 71.

Defendant not opposing application under section 71 not to appear as party

32. A defendant who has given notice under rule 31 (2) of his intention not to oppose an application under section 71 shall not be allowed to appear or act as a party against the application in any proceedings thereon.

Countermanding notice of hearing where application under section 71 abated, etc.

33. Where after notice of the hearing of an application under section 71 has been given but before the hearing commences, the defendant dies or resigns, or the Registrar receives —

- (a) an application for withdrawal;
- (b) a notice of the defendant's intention not to oppose; or
- (c) a notice of the abatement of the application under section 71 by death,

the Registrar shall immediately countermand the notice of hearing in the same manner, as near as may be, as a notice of hearing may be given in rule 18.

Dismissal of application under section 71

34.—(1) An application by a defendant to stay or dismiss an application under section 71 before the day fixed for the hearing shall be made by summons to the Judge.

(2) The defendant shall, not less than 7 days before the date of hearing of his application under paragraph (1), serve a copy of the application and its supporting affidavit on the plaintiff and any other defendant, and shall file a copy thereof at the office of the Registrar.

(3) The Judge may, at any stage of the proceedings, order an application under section 71 to be struck out or amended on the ground that —

- (a) it is scandalous, frivolous or vexatious;
- (b) it may prejudice, embarrass or delay the fair hearing of the application; or
- (c) it is otherwise an abuse of the process of Court,

and may order the application to be stayed or dismissed, as the case may be.

Costs

35.—(1) All costs of and incidental to the making of an application under section 71 and to the proceedings consequent thereon shall be defrayed by the parties to the application in such manner and in such proportions as the Judge may determine, regard being had to —

- (a) the disallowance of any costs which may, in the opinion of the Judge, have been caused by vexatious conduct, unfounded allegations, or unfounded objections, on the part either of the plaintiff or the defendant; and
- (b) the discouragement of any needless expense by throwing the burden of defraying the costs of and incidental to the application on the parties by whom it has been caused, whether the parties are or are not on the whole successful.

(2) No costs shall be allowed for drawing or copying any application under section 71 or any supporting affidavit that is not substantially in compliance with these Rules unless otherwise ordered by the Judge.

Taxation and recovery of costs

36.—(1) Costs shall be taxed by the Registrar upon the order by which the costs are payable in the same manner as costs are taxed in the High Court, but subject to such express directions, either general or specific, as the Judge may give; and costs when taxed may be recovered in the same manner as the costs of an action at law.

(2) The Judge may direct that the whole or any part of any moneys deposited by way of security under these Rules may be applied in the payment of taxed costs.

(3) Order 91 of the Rules of Court (R 5) shall apply to an application under section 71 and proceedings under these Rules relating thereto as if the application were an originating process.

Service of notices on solicitors

37. Service of notices and proceedings upon the solicitors shall be sufficient for all purposes.

Application of Rules of Court

38. Subject to the provisions of these Rules and the Act, the Rules of Court shall apply, with the necessary modifications, to the practice and procedure in any proceedings under the Act to which these Rules relate.

THE SCHEDULE

FORM 1

Rule 3 (3)

SUPREME COURT OF JUDICATURE ACT
(CHAPTER 322)

SUPREME COURT (PRESIDENTIAL ELECTIONS)
(APPLICATION FOR AVOIDANCE OF ELECTION)
RULES

RECEIPT FOR APPLICATION UNDER SECTION 71

Received on the ___ day of _____ 20__ at the Registry of the Supreme Court, an application touching the election of _____, the President of the Republic of Singapore, purporting to be made by _____.

*Registrar, or other officer to whom
the application is delivered*

THE SCHEDULE — *continued*

FORM 2

Rule 4 (4)

AFFIDAVIT

I _____, of _____,
Singapore, (make oath) (affirm) and say as follows:

1. I am a person who (voted) (had a right to vote) (was a candidate) (claims to have had a right to be returned) at the election held on the ____ day of _____ 20__, when _____ were candidates.

2. On the ____ day of _____ 20__ the Returning Officer returned _____ as being duly elected as President of the Republic of Singapore.

3. *(Here state the facts and grounds relied on in support of the application)*

4. I am therefore seeking a declaration (that the said _____ was not duly elected or returned and that the election was void) (that the said _____ was duly elected and ought to have been returned) (that the said _____ was not duly elected and ought not to have been returned) (that the said _____ was not duly elected and that the said _____ was duly elected and ought to have been returned or in the alternative that the election was void)

OR

I am therefore seeking an order that there be a scrutiny of the votes recorded as having been cast in the election.

*Sworn/*Affirmed at Singapore
this ____ day of _____ 20__

Before me,

Commissioner for Oaths

*Delete whichever is inapplicable.

THE SCHEDULE — *continued*

FORM 3

Rule 24 (b)

SUPREME COURT (PRESIDENTIAL ELECTIONS)
(APPLICATION FOR AVOIDANCE OF ELECTION)
RULES

NOTICE OF APPLICATION FOR LEAVE
TO WITHDRAW APPLICATION UNDER SECTION 71

In the application made under section 71 of the Presidential Elections Act in which _____ is plaintiff and _____ defendant.

NOTICE is hereby given that the above plaintiff did on the ____ day of _____ 20__ file at the office of the Registrar of the Supreme Court an application for leave to withdraw the application under section 71, and set out below is a copy of the application for leave to withdraw:

(Set out application here).

AND TAKE NOTICE that under the Supreme Court (Presidential Elections) (Application for Avoidance of Election) Rules, any person who might have been a plaintiff in respect of the said election may, within 5 days after the date of publication of this notice, file a notice in writing with the Registrar of the Supreme Court of his intention on the hearing of the application to be substituted as a plaintiff in the application under section 71.

(Signature of Plaintiff)

THE SCHEDULE — *continued*

FORM 4

Rule 30 (1) (a)

NOTICE OF ABATEMENT OF APPLICATION
UNDER SECTION 71

In the matter of
the Presidential Elections Act
(Chapter 240A)

AND

In the matter of
the Election for the office of President
of the Republic of Singapore held on
the ____ day of _____ 20__.

TAKE NOTICE that A.B., the sole (or surviving) Plaintiff herein, died on
_____ 20__.

AND FURTHER TAKE NOTICE that within one month after the date of
publication of this notice, any person who might have been a plaintiff in respect of
the said election may apply to the Election Judge to be substituted as a Plaintiff.

(Signature of Solicitor formerly acting
for Plaintiff or the Defendant).

[G.N. No. S 808/2005]
