

IN THE SUPREME COURT OF THE REPUBLIC OF SINGAPORE

PRACTICE DIRECTION NO. 4 OF 2004

OPENING STATEMENTS FOR TRIALS OF  
ACTIONS BEGUN BY WRIT IN THE HIGH COURT

With effect from **1 December 2004**, the Rules of Court (Amendment No. 2) Rules of 2004 ("the Amendment Rules") will come into operation. The Amendment Rules introduce, *inter alia*, the requirement of filing of Opening Statements, together with the affidavits of the evidence-in-chief and the bundle of documents under Order 34 r 3A of the Rules of Court (collectively known as "the trial bundle"), not less than 5 days before the trial of an action begun by writ in the High Court. Where Opening Statements are filed late, i.e., less than 5 days before the trial, a flat administrative fee of \$300 will be imposed. In addition, prolix Opening Statements will attract a filing fee of \$10 per page (or part thereof) in excess of 20 pages.

2 This requirement of filing Opening Statements shall apply to writ actions in the High Court where the trial commences on or after **8 December 2004**.

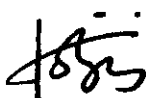
3 This Practice Direction seeks to reflect this requirement of filing Opening Statements as introduced by the Amendment Rules. Additionally, to make the Opening Statement a more useful document for the trial judge, the contents of Opening Statements have been stipulated with greater exactitude. Counsel are informed that where the Court is of the opinion that costs or hearing days have been wasted by a poorly drafted Opening Statement, the Court will have no hesitation in making a special order for costs against the relevant person.

4 As a corollary, an amendment has also been made to harmonise the timelines for the filing and service of the bundle of authorities and the trial bundle. The bundle of authorities shall now be filed and served along with the bundle of documents on all relevant parties at least 5 days before trial.

5 This Practice Direction will take effect from 1 December 2004.

6 This Practice Direction should be included in *The Supreme Court Practice Directions (1997 Ed.)* immediately before the first page of the table of contents. Instructions for effecting the amendments to *The Supreme Court Practice Directions (1997 Ed.)* are contained in the Appendix hereto.

Dated this 1<sup>st</sup> day of November 2004



KOH JUAT JONG  
REGISTRAR  
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## **APPENDIX**

- 1) The existing pages 28A to 36B to be replaced with the attached pages 28A to 36B.

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## **PART VI**

### **DOCUMENTS AND AUTHORITIES FOR USE IN COURT**

#### **33. Bundle of documents filed on setting down**

- (1) Order 34, Rule 3, requires a bundle containing certain documents to be filed together with the request for setting down. The documents in the bundle should be included in the order in which these appear in Order 34, Rule 3 (1).
- (2) This bundle should be firmly secured together with plastic ring binding or plastic spine thermal binding. The rings or spines should be red for plaintiffs and blue for defendants, and should have a transparent plastic cover in front and at the back.
- (3) Every page of the setting down bundle should be paginated consecutively at the top right hand corner of each page from the first page until the last. In the event that the bundle is in several volumes, the pagination should nonetheless run consecutively from the first page of the first volume until the last page of the last volume.

#### **34. Documents for use in trials in open Court, of writ actions**

- (1) This paragraph shall apply to trials in Open Court of:
  - (a) writ actions; and
  - (b) originating summonses ordered to be continued as if the cause of action had been begun by writ.
- (2) Order 34, Rule 3A, requires the originals of the affidavits of the evidence-in-chief of all witnesses, a bundle of documents and the opening statements to be filed not less than 5 days before the trial of an action. In addition, to improve the conduct of civil proceedings and to reduce the time taken in the presentation of cases in Court, the

respective solicitors of the parties shall also prepare a bundle of authorities.

(3) **Bundle of documents**

- (a) The bundle of documents required to be filed by Order 34, Rule 3A, should be paginated consecutively throughout at the top right hand corner. An index of contents of each bundle in the manner and form set out in Form 7 of Appendix B must also be furnished. No bundle of documents is necessary in cases where parties are not relying on any document at the trial.
- (b) Under Order 34, Rule 3A (3), it is the responsibility of solicitors for all parties to agree and prepare an agreed bundle as soon as possible. The scope to which the agreement extends must be stated in the index sheet of the agreed bundle.
- (c) The documents in the bundles should:
  - (i) be firmly secured together with plastic ring binding or plastic spine thermal binding. The rings or spines should be red for plaintiffs and blue for defendants with a transparent plastic cover in front and at the back;
  - (ii) have flags to mark out documents to which repeated references will be made in the course of hearing. Such flags shall bear the appropriate indicium by which the document is indicated in the index of contents. Flags shall be spaced out evenly along the right side of the bundle so that as far as possible they do not overlap one another; and
  - (iii) be legible. Clear legible photocopies of original documents may be exhibited instead of the originals provided the originals are made available for

inspection by the other parties before the hearing and by the Judge at the hearing.

- (d) Where originals and copies of documents are included in one bundle, it should be stated in the index which documents are originals and which are copies.
  - (e) Only documents which are relevant or necessary for the trial shall be included in the bundles. In cases where the court is of the opinion that costs have been wasted by the inclusion of unnecessary documents, the Court will have no hesitation in making a special order for costs against the relevant person.
  - (f) A core bundle should (unless clearly unnecessary) also be provided containing the really important documents upon which the case will turn or to which repeated reference will have to be made. The documents in this bundle should not only be paginated but should also be cross-referenced to copies of the documents included in the main bundles. The bundle supplied to the Court should be contained in a loose-leaf file which can easily have further documents added to it if required.
- (4) **Bundle of authorities**
- (a) The bundle of authorities to be prepared by each party should:
    - (i) contain all the authorities, cases, statutes, subsidiary legislation and any other materials relied on;
    - (ii) be properly bound with plastic ring binding or plastic spine thermal binding in accordance with the requirements set out in sub-paragraph (3) (c) above;
    - (iii) be paginated consecutively at the top right hand corner of each page. Pagination should

commence on the first page of the first bundle and run sequentially to the last page of the last bundle; and

- (iv) contain an index of the authorities in that bundle and be appropriately flagged for easy reference.
- (b) Only authorities which are relevant or necessary for the trial shall be included in the bundles. No bundle of authorities is necessary in cases where parties are not relying on any authority at the trial. In cases where the Court is of the opinion that costs have been wasted by the inclusion of unnecessary authorities, the Court will have no hesitation in making a special order for costs against the relevant person.
- (c) The bundle of authorities shall be filed and served along with the bundle of documents on all relevant parties at least 5 days before trial.

(5) **Opening statements**

- (a) A proper opening statement is of great assistance to the Court as it sets out the case in a nutshell, both as to facts and law. It is intended to identify both for the parties and the Judge the issues that are, and are not, in dispute. It enables the Judge to appreciate what the case is about, and what he is to look out for when reading and listening to the evidence that will follow. The need for brevity is emphasised as opening statements that contain long and elaborate arguments, and citations from and references to numerous authorities, do not serve this purpose.
- (b) Opening statements will be required in all cases commenced by writ in the High Court from all parties, except where dispensation has been granted by the

Court and in motor vehicle accident actions. Statements submitted may be taken as read by the trial Judge.

- (c) The opening statements of all parties must be filed and served as a separate document, along with the bundle of documents, on all relevant parties not less than 5 days before the commencement of the trial for which they are to be used.
- (d) All opening statements must include the following:
  - (i) the nature of the case generally and the background facts insofar as they are relevant to the matter before the court and indicating which facts, if any, are agreed;
  - (ii) the precise legal and factual issues involved are to be identified with cross-references as appropriate to the pleadings. These issues should be numbered and listed, and each point should be stated in no more than one or two sentences. The object here is to identify the issues in dispute and state each party's position clearly, not to argue or elaborate on them;
  - (iii) the principal authorities in support of each legal proposition should be listed, while the key documents and witnesses supporting each factual proposition should be identified;
  - (iv) where there is a counterclaim or third party action, the opening statement must similarly address all issues raised therein; and
  - (v) an explanation of the reliefs claimed (if these are unusual or complicated).
- (e) In cases where the Court is of the opinion that costs or hearing days have been wasted by a poorly drafted opening statement, the Court will have no hesitation in



making a special order for costs against the relevant person.

- (f) The following format shall be adhered to when preparing opening statements:
    - (i) all pages shall be paginated, with the first page (not including any cover page) numbered as 'Page 1';
    - (ii) the minimum font size to be used is Times New Roman 12 or its equivalent;
    - (iii) the print of every page shall be double spaced;
    - (iv) each page should be printed only on one side; and
    - (v) every page shall have a margin on all 4 sides, each of at least 35 mm in width.
  - (g) All opening statements should not exceed 20 pages (including all annexes and appendices, but excluding the cover page and backing page from any computation of the number of pages).
  - (h) Opening Statements may be amended at trial, but Counsel will be expected to explain the reasons for the amendments. The amended opening statements will be subject to the prescribed fees for late filing and for excess pages upon filing.
- (6) At the trial of the cause or matter, an adjournment may be ordered if:
- (a) the above documents or any of them, save for the opening statement in cases where it is not required or dispensation was granted, were not filed and served within the prescribed time or at all; or
  - (b) one party seeks to tender any of the above documents or supplements thereto except for supplements to the opening statement at the trial of the cause or matter.

- (7) If an adjournment is ordered for any of the reasons set out in sub-paragraph (6) above, the party who has failed to file or serve his documents within the prescribed time or at all or who seeks to tender a document or supplement thereto except for supplements to the opening statement may be ordered by the Court to bear the costs of the adjournment.
- (8) For the avoidance of doubt, where the period in question under this paragraph is a period of 7 days or less, it will not include Saturdays, Sundays or public holidays.

**35. Bundles of authorities for other hearings**

In all criminal proceedings and civil and criminal appeals heard in open Court in the High Court and the Court of Appeal, counsel shall submit their own bundle of authorities. In this regard, paragraph 34 (4) above shall, *mutatis mutandis*, be complied with.

**36. Hearing in Chambers**

In all hearings in Chambers before a Judge or Registrar, counsel shall submit their bundles of documents and their own bundle of authorities. Order 34, Rule 3A, and the requirements of paragraphs 34 (3) and 34 (4) shall, *mutatis mutandis*, be complied with in this regard, save that the bundles may be submitted at the hearing itself before the Judge or Registrar, as the case may be.

**36A. Documents for use in trials in open Court of contested divorce petitions and contested companies winding-up petitions**

- (1) This paragraph shall apply to trials in open Court of:
  - (a) contested divorce petitions; and
  - (b) contested companies winding-up petitions
- (2) To improve the conduct of contested divorce petitions and contested companies winding-up petitions and to reduce the time taken in the presentation of cases in Court, the following

documents shall be prepared by the respective solicitors of the parties:

- (a) a bundle of documents (an agreed bundle where possible);
- (b) a bundle of authorities; and
- (c) an opening statement.

(3) **Bundle of documents**

- (a) Documents to be used at trial should be consolidated into bundles paginated consecutively throughout at the top right hand corner. An index of contents of each bundle in the manner and form set out in Form 7 of Appendix B must also be furnished. No bundle of documents is necessary in cases where parties are not relying on any document at the trial.
- (b) It is the responsibility of solicitors for all parties to agree and prepare an agreed bundle as soon as possible. The scope to which the agreement extends must be stated in the index sheet of the agreed bundle.
- (c) In cases where certain documents cannot be agreed upon, these should be separately bundled as the petitioner's bundle, the respondent's bundle or such other party's bundle as the case may be.
- (d) The documents in the bundles should:
  - (i) be firmly secured together with plastic ring binding or plastic spine thermal binding. The rings or spines should be red for petitioners and blue for respondents with a transparent plastic cover in front and at the back;
  - (ii) have flags to mark out documents to which repeated references will be made in the course of the hearing. Such flags shall bear the appropriate indicium by which the document is

- (iii) indicated in the index of contents. Flags shall be spaced out evenly along the right side of the bundle so that as far as possibly they do not overlap one another; and
  - (iii) be legible. Clear legible photocopies of original documents may be exhibited instead of the originals provided the originals are made available for inspection by the other parties before the hearing and by the Judge at the hearing.
- (e) Where originals and copies of documents are included in 1 bundle, it should be stated in the index which documents are originals and which are copies.
- (f) Only documents which are relevant or necessary for the trial shall be included in the bundles. In cases where the Court is of the opinion that costs have been wasted by the inclusion of unnecessary documents, the Court will have no hesitation in making a special order for costs against the relevant person.
- (g) A core bundle should (unless clearly unnecessary) also be provided containing the really important documents upon which the case will turn or to which repeated reference will have to be made. The documents in this bundle should normally be paginated but should also be cross-referenced to copies of the documents included in the main bundles. The bundle supplied to the Court should be contained in a loose-leaf file which can easily have further documents added to it if required.
- (h) The bundles of documents including the agreed bundle and core bundle, if applicable, shall be filed and served on all relevant parties at least 5 days before trial.

(4) **Bundle of authorities**

The requirements set out in paragraph 34 (4) shall, mutatis mutandis, be complied with in respect of proceedings falling within this paragraph.

(5) **Opening statements**

The requirements set out in paragraph 34 (5) shall, mutatis mutandis, be complied with, save that any reference to the “plaintiff” or the “defendant” shall be read as a reference to the “petitioner” or the “respondent” respectively.

(6) Paragraphs 34 (6) and 34 (7) shall apply, mutatis mutandis, to proceedings to which this paragraph applies.

*(The next page is page 37)*