



FAMILY JUSTICE COURTS
S I N G A P O R E



**CASE MANAGEMENT
HANDBOOK
FOR DIVORCE MATTERS**

Family 1 Case Management Team June 2020

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Registrar

Family Justice Courts of Singapore

Foreword

This Handbook is a very important development in the ongoing dialogue between the Family Justice Courts and the family law practitioners about how best to manage the cases commenced in Court. It contains a wealth of information, guidance and practices and discusses the tools and techniques available to practitioners and unrepresented litigants who come before the Court. It is a Handbook that gathers the experience and practices of Family Court judges, some of whom were former practitioners, and provides a valuable insight into the principles of case management which apply within the Family Justice Courts.

This Handbook is meant as a resource tool for all court users.

I commend the judges who took the time and effort to develop this Handbook and highly recommend it for all court users.

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Family Justice Courts of Singapore

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Introduction

The objectives of the case management handbook

Case management underwent a radical change with the enactment of the Family Justice Rules 2014 in particular with the shift in paradigm such that litigation is no longer lawyer driven but judge-led in its approach.

The overarching purpose of case management with the Family Justice Courts is to facilitate the just resolution of disputes according to law, as inexpensively and as efficiently as possible with the least acrimony. Parties and lawyers who enter our doors are tasked to conduct all proceedings according to this case management philosophy within the framework of the judge-led approach encapsulated in Rule 22 of the Family Justice Rules. They are obliged to co-operate with and assist the Court in achieving this purpose.

This Handbook explores the various ways in which a court user can achieve this purpose and how he/she is to prepare and manage his or her proceedings in court - from the case conference to the hearing of any interim application leading to the final ancillary matters hearings. It also explores preparatory work and useful tips for attendance and conduct of the pre-trial conference at the High Court Family Division.

As the work of the Family Court is intertwined with that of stakeholders, the Handbook also explores common issues with orders involving division of funds in Central Provident Fund accounts as well as dealing with the division of a Housing and Development Board flat. Template orders in compliance with our stakeholders' rules and regulations are also provided.

The Handbook offers practical tips, dos and don'ts at case conferences and the Court's expectations of the conduct of hearings. It is a useful tool to assist the court user in his or her proceedings in our court to achieve the purpose of identifying core issues and resolving these issues expeditiously and efficiently whilst according due importance to the court user's need

to be heard and access to justice. Please note that this Handbook should be read in conjunction with the Family Justice Rules and the Practice Directions, and where any discrepancies exist, the latter two documents shall take precedence.

Case Management and the “Judge-led” Approach

1 Introduction

- 1.1 2014 marked the enactment of the Family Justice Rules (“FJR”), together with the creation of a set of Practice Directions¹. The FJR allowed the judge to assume a greater inquisitorial role in proceedings, and enabled cases to be managed based on different timelines/tracks depending on their complexity. This paved the way for a more “judge-led” system geared towards ensuring “just, expeditious and economical” outcomes².
- 1.2 The Committee for Family Justice also recommended in 2014 that the court hearing process should introduce elements to (i) empower the judge to proactively guide and direct proceedings; (ii) reduce acrimony between the parties; and (iii) minimise the negative impact that court proceedings may have on the parties involved, especially the children.
- 1.3 Due to the emotional nature of family law proceedings, such proceedings sometimes tend to be more protracted and multiple interlocutory or interim applications may be filed. As the general assumption is that protracted litigation is detrimental to the best interests of the children and families, it is essential that family cases be prevented from “spiralling out of control”³. Effective case management is therefore essential to ensure (i) the expeditious resolution of cases without compromising delivery of justice; (ii) the efficient allocation of limited court resources; (iii) the efficacy of court procedures and compliance with court directions.

¹ Family Justice Courts Practice Directions 2015

² Rule 22, FJR

³ “Shifting to a “Judge-Led” system for family law proceedings: some observations on the Singapore experiment thus far”, by Chen Siyuan

- 1.4 In 2017, the Committee to Review and Enhance Reforms in the Family Justice System (“the RERF Committee”) was formed to review and strengthen the existing family justice system. One of the recommendations of the RERF Committee was for the “judge-led” approach to be enhanced for greater clarity in managing cases. The FJR is also currently undergoing a major revamp in order to streamline court processes and to make the FJR more user-friendly for litigants who are acting in person.

2 What does “Judge-led” mean?

What can the judge do?

- 2.1 The judge should actively direct, control and manage the conduct of proceedings instead of leaving the parties to run the proceedings however they wish to do so, with a view to keeping the proceedings as acrimony-free as possible and leading to better outcomes for families and children. The lawyers and litigants are also expected to assist the judge to problem-solve and come to a fair decision, and not to prolong or cause undue delay to the proceedings. This is reflected in paragraph 6(1) of the Family Justice Courts Practice Directions (“the Practice Directions”): “The overarching purpose of case management with the Family Justice Courts is to facilitate the just resolution of disputes according to law as inexpensively and as efficiently as possible with the least acrimony.”
- 2.2 In the Family Justice Courts, Case Conferences (“CCs”) are frequently conducted by the Assistant Registrars (“ARs”) to monitor the progress of a case, and to ensure that the directions and timelines given by the court are complied with. Paragraph 1 of rule 22 of the FJR requires the court to “take the initiative to define the dispute as it has to identify the relevant issues and ensure that relevant evidence is adduced⁴”. This includes:
- (i) identifying and narrowing the key and relevant issues;
 - (ii) determining what evidence should be adduced by the parties;
 - (iii) restricting the number of interlocutory applications and/or affidavits if necessary;
 - (iv) considering all relevant pending matters, such as other related applications filed by way of Magistrate’s Complaint;
 - (v) exploring options for alternative dispute resolution as early as practicable; and
 - (vi) consolidating and giving directions for all relevant matters.

⁴ [22.06] of Family Procedure in Singapore, by Chen Siyuan, Eunice Chua and Lionel Leo.

This not only facilitates a more effective and expedient processing of cases, but also reduces the number of required court attendances and affidavits to be filed by the parties.

2.3 The “judge-led” powers of the court therefore allow the AR to, for example, dispense with unnecessary interlocutory applications by summarily dismissing such applications at CC; or to expedite the proceedings on the Court’s own motion by making unless orders. Unless orders usually compel a party to do something, for example to file an affidavit, and are reserved mainly for repeated and contumelious process breaches. Costs orders may also be made against any party for wasted court attendances due to non-compliance with court directions. In some cases, a higher-than-usual quantum of costs may be ordered for repeated process breaches. In the event that any party does not comply with any order made or direction given, the judge can even dismiss the action or strike out the defence or counterclaim⁵.

2.4 Pursuant to rule 25 of the FJR and the Practice Directions, lawyers are expected to personally attend case conferences, and must be “thoroughly prepared to discuss all relevant matters as the Registrar conducting the case conference will take a holistic approach to the case and consider all relevant matters relating to the case”⁶. Lawyers are also expected to advise their clients about other dispute resolution options, especially mediation, which should be “considered at the earliest possible stage in order to facilitate an amicable resolution of the dispute”⁷. For child-related proceedings, parties would have to attend a Family Dispute Resolution Conference to crystallise the contested issues, especially those relating to the child of the marriage. The judge may also direct the parties to prepare a Summary for Mediation as well as relevant documents⁸, in advance of court-annexed mediation.

⁵ Rule 22(5) of the FJR.

⁶ Paragraph 86(3) of the Family Justice Courts Practice Directions.

⁷ Paragraph 11(1A) of the Practice Directions.

⁸ Paragraph 11(14) of the FJC Practice Directions

- 2.5 Judges can also conduct interviews with children, in appropriate cases involving custody disputes and where the child is of an age and maturity to make his/her views known. In *AZB v. AZC* [2016] SGHCF 1, the High Court was of the view that a judge may choose to interview the children on his/her own motion without an application being made by either parent. Alternatively, the judge can also choose to obtain useful information regarding the child from other parties such as the parents, lawyers, a Child Representative or a mental health professional.
- 2.6 In hearing ancillary proceedings, it is acknowledged that rule 22 gives a “wide discretion” to the judge to achieve a “just, expeditious and economical disposal” of the ancillaries, and that the judge has a more independent role than that of a judge in ordinary civil proceedings⁹. *TIG v. TIH* [2016] 1 SLR 1218 also provided some guidelines on the court’s role in managing evidence in ancillary proceedings; such as whether cross-examination of witnesses over “minute events taking place many years ago for the purposes of assessing each party’s indirect contribution” was necessary (it was not).
- 2.7 The judge can also order that a party may give oral evidence, instead of affidavit evidence, at a hearing¹⁰ if the obtaining of affidavit evidence would lead to the adjournment and prolonging of a case. The number of affidavits filed may also be limited, for example, rule 89 of the FJR allows only up to two ancillary affidavits without having to apply for approval from the court. Rule 100(6) of the FJR also allows unsworn evidence in lieu of an affidavit in proceedings concerning family violence. For such cases, the trial can even be conducted without oral testimony or examination of witnesses if there is no dispute on the facts; and the parties agree that there is only a question of law to be tried¹¹.
- 2.8 The Practice Directions also provide that in applications for discovery and interrogatories, the court will not order discovery as a “matter of course”, even where

⁹ *TIG v. TIH* [2016] 1 SLR 1218.

¹⁰ *TXC v. TXD* [2017] SGFC 12.

¹¹ Rule 101 of the FJR.

both parties consent, unless it is “necessary for the determination of issues in the proceeding”¹². In determining whether to make any order for discovery, regard will also be had to the issues in the case, the order in which they are likely to be resolved, the resources and circumstances of the parties, the likely benefit of discovery and the likely cost of discovery and whether that cost is proportionate to the nature and complexity of the proceeding¹³.

- 2.9 One possible issue that may arise from the “judge-led” approach may be that of “excessive judicial interference” or the perception that the judge is descending into the arena. *BOI v. BOJ* [2018] 2 SLR 1156 offers some guidelines as to when this may arise. Pursuant to rule 22, the court has “wide powers to manage the flow of the proceedings, including the power to limit time for oral arguments”. The judge must however be careful not to take up “a position and pursue it with the passion of an advocate”, nor should the judge intervene in a manner which impedes a party’s presentation of its case. However, the Court of Appeal recognised that in this case, which was described as one that “cried out for judicial intervention”, it was necessary for the judge to “keep a tight rein on the proceedings”, cut down on the issues of dispute, and steer the parties towards a resolution of the final ancillary matters.
- 2.10 Another important question is whether “judge-led” powers extend to making decisions/orders which affect the substantive rights of the parties, or are reserved only for general case management decisions which are more administrative and procedural in nature. It appears that substantive interim orders could be justified using the “judge-led” approach, *if* the making of such orders assists to reduce the acrimony between the parties and promotes the welfare of the child(ren). In *TZW v. TZX* [2017] SGFC 43, the “judge-led” approach was used by the judge during a case conference to make an order for interim maintenance for the child, even though this was not strictly within the scope of the application. The judge explained that the interim order was made taking

¹² Paragraphs 6(14).

¹³ Paragraph 6(15) of the FJC Practice Directions.

into account the best interests and welfare of the child, as the parties were foreigners and therefore were not eligible to seek help from the relevant governmental agencies.

2.11 In a recent unreported decision of the High Court (Family Division)¹⁴, the learned Presiding Judge Debbie Ong found that the District Judge had “exercised the judge-led approach in a principled way” in restricting the evidence presented by the parties. This case was docketed to the District Judge (“the DJ”) who heard various interlocutory applications regarding interim care and control of the child, as well as an assessment of the mother’s mental state and discovery of documents¹⁵. There were cross-appeals filed by both parties mainly regarding the interim care orders made. However, the father of the child also appealed against (i) the dismissal of his applications for discovery and for the appointment of a mental health expert to examine the mother; and (ii) the DJ’s directions for final affidavits to be filed by the parties and the fixing of the main applications for hearing.

2.12 With regard to the discovery application, the DJ explained in her grounds of decision that being the docket judge, she would also be the judge hearing the main applications and already had the benefit of seeing the evidence before her and was best-placed to ascertain if discovery of certain documents was “relevant and necessary” for the determination of the issues. As part of the DJ’s directions for final affidavits, she also restricted the parties to the filing of only one final affidavit each as there had already been numerous voluminous affidavits filed (10 by the father and 8 by the mother). The DJ also directed that there should be no further affidavits filed by third parties, as there was already sufficient evidence before her from various third parties. In agreeing with the DJ, the Presiding Judge found that while the father may “perceive the DJ’s restrictions on the evidence to be ‘unfair’ because he is not able to present all the evidence he wishes to”, the mother may also “perceive unfairness if the DJ had allowed a party to bring to court unnecessary evidence, protracting proceedings, increasing costs and distracting all from the most important issues”. It thus seems that in

¹⁴ RASes 18/2019, 20/2019, 24-27/2019, oral decision delivered on 8 Aug 2019.

¹⁵ See *UYJ v. UYK* [2019] SGFC 76.

restricting evidence presented, one should always give sound reasons for doing so and bear in mind the purpose of the “judge-led” approach, which is to control/not to protract proceedings for the sake of protecting the child’s welfare.

3 Some Dos and Don'ts of Case Management

- 3.1 **DO** come prepared for case conferences. As the “judge-led” approach requires the court to actively manage and direct the conduct of proceedings, this usually means that you may be asked questions on (i) the disputed issues; (ii) the gross value of the matrimonial asset pool; (iii) whether the issues relating to the child are contentious, i.e. parties are fighting over care and control; (iv) if the parties have attended mediation; and (v) whether there is any third-party interest in any matrimonial asset.
- 3.2 **DO** assist the Court in expediting proceedings. This means that if there is only one matrimonial property and no other extraordinary/complex issues or asset tracing, and you have already gone through two rounds of discovery and interrogatories, please do not say that you wish to issue a third round of discovery for documents which may not be material or relevant to the determination of the issues.
- 3.3 **DO** be punctual. While there are usually quite a few cases fixed on the Case Conference list, sometimes there may only be a handful of cases which are dealt with quickly. If your Case Conference is fixed for 2.30pm, please do not assume that you will usually have to wait at least an hour and show up only at 3.30pm or 4pm. Even if you have an agreement with your learned friend to do so. The court is not bound by counsels’ agreement to “meet only at 4.30pm”.
- 3.4 **DO** comply with court directions, especially timelines given for the filing of documents/affidavits.
- 3.5 **DO** be respectful towards the other party and the AR conducting the Case Conference. It is not polite to express your disagreement by way of body language or non-verbal utterances. Mutual respect must be extended.

- 3.6 **DON'T** ask for, and expect, an adjournment to be granted for no good reason. Generally, only unforeseen and/or uncontrollable circumstances which render it impossible or highly prejudicial for the hearing to proceed will be accorded due weight. For example, an adjournment will be granted if you/your lawyer are hospitalised and have a medical certificate valid for absence from court attendance. While it is not possible to list the "good reasons" for adjournment exhaustively, a "common-sense" test will be applied. Non-critical circumstances (e.g. the illness of a pet) or preventable conflicts ("I have another meeting that can only be held on this date") will not be looked upon favourably.
- 3.7 **DON'T** expect that a request for an extension of time to file documents/affidavits will be automatically granted, especially if it is not the first extension of time.
- 3.8 **DON'T** ask for another extension of time after the final extension has already been granted. A direction that an extension is "final" should be taken literally.

Interim Applications

1 Introduction

- 1.1 This Chapter deals with the filing of interim applications.
- 1.2 In the course of proceedings commenced by a Writ or Originating Summons (“OS”), prior to the final hearing of the matter, parties may file applications regarding various issues. These applications are treated as interim applications, and would generally be:
- a) Procedural - Applications for substituted service or dispensation of service, or for the production of documents and information (discovery and interrogatories); or
 - b) Substantive - Applications requiring the court to determine the substantive rights of the parties pending the final hearing (custody, care & control, access and maintenance). These orders will be superseded by orders made at the final OS, or ancillary matters, hearing.

2 Timelines

2.1 Interim applications are commenced by the filing of a summons in the proceedings, supported by an affidavit. They are generally heard *inter partes*, which means that both parties – the party who files the summons (“**Applicant**”) and the party who responds to the summons (“**Respondent**”) - will submit evidence to the Court for determination. The general timeline for an interim application is set out in the table below.

Stage	Description
Filing of Summons and Supporting Affidavit	Filed by the Applicant, and served on the Respondent.
Case Conference	This will be fixed by the Court within a few weeks of filing of the Summons, in order to manage and give directions for the Summons before it is ready for hearing.
Filing of Reply Affidavit	Filed by the Respondent <u>within 14 days</u> after the service of the Summons and Supporting Affidavit on the Respondent.
Filing of Final Response Affidavit	Filed by the Applicant <u>within 14 days</u> after the service of the Reply Affidavit on the Applicant.
Hearing of the Interim Application	The Court will hear submissions and make orders on the Interim Application. Parties are usually required to file written submissions <u>7 days before</u> the hearing.

2.2 Where the application is relatively straightforward, the Court can make the relevant orders at Case Conferences, pursuant to the judge-led approach. This will generally include procedural applications in which the issue is primarily one of costs, such as applications for extensions of time, and for dispensation of service or substituted service.

3 Substituted Service and Dispensation of Service

A. Introduction

- 3.1 Originating processes (Writs and OSes) are required to be served on the other party personally i.e. leaving the documents with their person. This is necessary in order to bring the attention of the other party to the filing of the Writ or OS against them.
- 3.2 Similarly, summonses (including interim applications) are also required to be served on the Respondent, but may be done by *ordinary* service instead, unless 1 year or more has lapsed since the last Court proceeding. Forms of ordinary service include:
- a) Leaving the documents at the last known address of the person to be served, or the business address of the lawyer representing the person in the proceedings.
 - b) Posting to the last known address of the person to be served, or the business address of the lawyer representing the person in the proceedings.

*A full list of the forms of ordinary service can be found in the Family Justice Courts Practice Directions ("**FJPD**"), paragraph **902**.*

B. Types of Substituted Service

- 3.3 When personal service against the party defending a Writ or OS (“Defendant”) cannot be effected by the party filing the Writ or OS (“Plaintiff”), an application for an order for substituted service or dispensation of service should be filed. The application is filed as an *ex-parte* summons supported by affidavit – meaning that the application will be heard without giving notice to the Defendant.
- 3.4 The Court may order four types of substituted service where applicable.
- a) By posting on the front door at the Defendant’s last known address in Singapore.
 - b) By way of pre-paid AR registered post/ordinary post to the Defendant’s last known address.
 - c) By electronic means e.g. electronic mail, instant messenger or social media account.
 - d) By way of advertisement.
- 3.5 If the Defendant’s last known address is known, an application should be made for substituted service under (a) or (b) above. If the last known address is not known but the Plaintiff knows the Defendant’s current contact number/email address/social media account, an application could be made for substituted service under (c) above. Substituted service under (d) above is usually done when the Plaintiff does not have the Defendant’s contact details or address but is aware that the Defendant is in a certain country, is literate in a certain language and this mode would be effective in bringing the proceedings to the notice of the Defendant.
- 3.6 If all the modes of substituted service described above would not be effective in bringing the proceedings to the notice of the Defendant or the Defendant cannot be

found/located, then the Plaintiff should apply for dispensation of service. This means that if successful, the documents need not be served on the Defendant.

C. Content of the Affidavits

3.7 The contents of the supporting affidavit or affidavits to be filed in Court for the respective applications are summarised below. Applicants should also consider the **FJPD**, paragraph 79.

1. Posting on the front door/ Posting to the Last Known Address

3.8 **Belief** - The affidavit should set out why the Plaintiff believes that the Defendant resides at this address.

- a) In the case where Defendant is an owner of the property, the Plaintiff should obtain documentary proof from either of the following sources to prove that the Defendant is an owner of the property, and state the grounds for the Plaintiff's belief that the Defendant continues to reside there, e.g. Plaintiff has seen this.
 - (i) Inland Revenue Authority of Singapore (<https://www.iras.gov.sg/irashome/e-Services/Property/Property-Professionals/>) – Check Annual Value of Property.
 - (ii) Singapore Land Authority (<https://www.sla.gov.sg/INLIS/#/>) – Property Ownership Information.
 - (iii) Housing & Development Board (<https://www.hdb.gov.sg> – MyHDBPAGE/OVERVIEW/MY FLAT/PURCHASED FLAT/FLAT DETAILS) - Purchased Flat Details.
 - (iv) Accounting and Corporate Regulatory Authority (<https://www.bizfile.gov.sg> – Buy Information/People Profile – People Profile.

- b) In a case where the Plaintiff is not able to prove the Defendant's address by the above means, the Plaintiff can prove the Defendant's address by referring to the following sources:-
- (i) Details of how the Plaintiff obtained the address from the Plaintiff's last contact with the Defendant, including the date, the mode of contact (orally over the phone or a meeting, or in writing) and the contents of that discussion.
 - (ii) Details of how the Plaintiff obtained the address from the Defendant's relatives, friends and employers who would have knowledge of the Defendant's whereabouts. The names and contact details of these sources should also be set out, together with the mode of contact with the source (orally over the phone or a meeting, or in writing) and the contents of that discussion.

3.9 **Attempts at personal service** - Two reasonable attempts at personal service must be made, and the dates, times, and outcomes of these attempts must be stated in the affidavit.

3.10 If the attempts at personal service were not successful because the server was informed that the Defendant is overseas or has moved away, then the Plaintiff must explain how the posting to or at that address would bring the documents to the notice of the Defendant.

3.11 **Overseas Service** – If the posting is intended to be effected on an overseas address, the above requirements will also apply, and the Plaintiff must also state the Defendant's nationality and to give reasons why posting to this overseas address would bring the documents to the notice of the Defendant.

II. *By electronic means e.g. electronic mail, instant messenger or social media account.*

3.12 **Belief** – The Plaintiff must provide proof that the Defendant actively communicates through the specific electronic mail, instant messenger or social media account. Documentary proof of these communications should be exhibited in the affidavit.

III. By Advertisement

3.13 **Belief** – The Plaintiff must be able to explain why the Defendant cannot be contactable by electronic means, or by posting at or to an address. Efforts to obtain these details from the Defendant’s friends, relatives and employer must be stated in the affidavit. The names and contact details of these sources should also be set out, together with the mode of contact with the source (orally over the phone or a meeting, or in writing) and the contents of that discussion.

3.14 **Language** – The Plaintiff must set out the nationality of the Defendant, the language that the Defendant is believed to be literate in, and the newspaper in which the advertisement is to be placed.

- a) If the Defendant is literate in English, then the advertisement should be placed in the Straits Times.
- b) If the Defendant is literate in a language other than English, then the advertisement should be placed in the main newspaper for that language.
- c) If it is not known which language the Defendant is literate in, then the advertisement should be placed in both the Straits Times and one of the main non-English Language newspapers.

3.15 **Overseas Advertisement** – If the advertisement is intended to be placed in an overseas newspaper, the Plaintiff should also state the Defendant’s nationality and why the Plaintiff believes that the Defendant is residing in that country/state.

Form of Advertisement – Once the order is granted, the form of advertisement must be in accordance with **Form 19** of the FJPD.

IV. Dispensation

- 3.16 Dispensation of service is regarded as a last resort, when no known form of substituted service would be effective in bringing the proceedings to the notice of the Defendant.
- 3.17 **Belief (regular forms of service)** – The Plaintiff must be able to explain why the Defendant cannot be contactable by electronic means, or by posting at or to an address. Efforts to obtain these details from the Defendant's friends, relatives and employer must be stated in the affidavit. The names and contact details of these sources should also be set out, together with the mode of contact with the source (orally over the phone or a meeting, or in writing) and the contents of that discussion.
- 3.18 **Belief (advertisement)** – The Plaintiff must set out the nationality of the Defendant, and explain why advertisement would not be effective to bring the proceedings to the notice of the Defendant. For example, it is not known which country the Defendant is currently located in, or the Defendant is illiterate.

D. Who Should Affirm the Affidavits

- 3.19 An affidavit should only be affirmed by a person with personal knowledge of the facts that are stated in the affidavit. Some common examples are discussed below:
- a) Where a Plaintiff has spoken with sources to determine the location or contact details of the Defendant – Affidavit to be affirmed by the Plaintiff.
 - b) Where attempts have been made by a service clerk to serve the documents at a specific address – Affidavit to be affirmed by the service clerk.
 - c) Where the Plaintiff has personally seen the Defendant residing at the stated address – Affidavit to be affirmed by the Plaintiff.

Exhibits to the Affidavits

- 3.20 If a document is referred to in an affidavit, that document must be exhibited in the affidavit. This includes text and electronic messages, as well as electronic mails. If any document is not in the English language, a certified translation must be obtained and exhibited in the affidavit. Some common examples of documents include:
- a) Documentary proof that the Defendant is the owner of the property that the documents should be posted at or to – a copy of the relevant search result should be exhibited.
 - b) When the Defendant communicates with the Plaintiff by electronic text messages or mail, stating the Defendant's contact details – a copy of the electronic text messages or mail should be exhibited.
 - c) Where the Plaintiff communicates by electronic text message or mail with a source to determine the contact details of the Defendant – a copy of the electronic text messages or mail should be exhibited.

E. What to Do After the Order is Granted

- 3.21 If the order for substituted service is granted, a copy of the documents to be served and the order for substituted service should be served on the Defendant in the prescribed manner. An affidavit of service should then be filed by the person who effected the substituted service in accordance with **Form 20** of the FJPD.
- 3.22 If an order for dispensation of service of a document is granted, there is no further action to be taken in respect of service.

F. Sample Orders

- 3.23 Sample orders for substituted service and dispensation of service applications are set out below.

S/No.	Type of Service	Prayers in the Summons
a)	Substituted service by posting on the front door of an address.	That leave be granted for the Plaintiff to serve the [documents] and the order in this summons on the Defendant by posting on the front door of [address] , and that service in this manner be regarded as good and proper service on the Defendant.

b)	Substituted service by AR registered post or ordinary post to an address.	That leave be granted for the Plaintiff to serve the [documents] and the order in this summons on the Defendant by AR registered post or ordinary post to [address] , and that service in this manner be regarded as good and proper service on the Defendant.
c)	Substituted service by electronic means	That leave be granted for the Plaintiff to serve the [documents] and the order in this summons on the Defendant by transmitting it to [email address@domaine.com] or [the Defendant's WhatsApp account linked to phone number xxxxxxxx] or [the Defendant's social media account at Facebook/Wechat (Facebook ID/Wechat ID)] , and that service in this manner be regarded as good and proper service on the Defendant.
d)	Substituted service by Advertisement	That leave be granted for the Plaintiff to serve the [documents] and the order in this summons on the Defendant by way of advertisement in the [Name of Newspaper] , and that service in this manner be regarded as good and proper service on the Defendant.
e)	Dispensation of service	That service of [documents] on the Defendant be dispensed with.

4 Discovery and Interrogatories

A. Introduction

- 4.1 In the course of proceedings, the parties' evidence is set out in the text of affidavits which narrate the parties' version of events and in the documents exhibited in these affidavits.
- 4.2 However, not every litigant may provide sufficient evidence that would be relevant and necessary to the Court's determination of the matter. In such a case, either party may ask for the relevant evidence to be produced by filing an application for:
- a) Specific Discovery – this would require the Respondent to provide specific documents or categories of documents. If the Respondent never had the documents, cannot get the documents or had them and no longer has them, then he/she should explain the relevant circumstances.
 - b) Interrogatories – this would require the Respondent to provide answers to specific questions posed by the Applicant.
- 4.3 In applications for Discovery and Interrogatories, the Applicant must satisfy the Court that the documents or answers being requested are relevant and necessary for the determination of the issues in the matter. In the case of discovery, the Applicant must also satisfy the Court that the documents being requested are in the possession, power and control of the Respondent. It is important to remember that while the parties have a duty to make full and frank disclosure throughout the proceedings, specific discovery/interrogatories may not be as of right if the documents sought merely lead to a train of inquiry or are relied on by the other party (not the requesting party) to prove his case.

B. Discovery

1. Timeline

4.4 Applications for specific discovery may only be filed after the Applicant has already sent a written request for the documents to the Respondent and the subsequent disclosure by the Respondent, if any, is insufficient. A general timeline for discovery is set out below. These timelines can be extended by agreement of the parties, or by directions from the Court.

	Stage	Description	Applicable Form
1.	Written Request for Discovery	<p>The request is made by the Applicant, and must be served on the Respondent.</p> <p>In the request, the Applicant sets out the documents and categories of documents that the Respondent is required to produce, and the reason these documents are required.</p> <p>Sometimes, only documents from a specific period of time may be relevant. In this case, the Applicant is required to state the relevant time frame.</p> <p>The reasons for discovery may sometimes be related to a particular document or a statement made in a specific document filed in the proceedings. In this case, the Applicant must refer to the document, page and paragraph number.</p>	Form 233 – FJPD
2.	Notice in Response to Discovery	<p>The notice is given by the Respondent, and must be served on the Applicant <u>within 14 days</u> after service of the request.</p> <p>In the notice, the Respondent will state which of the requested documents will be provided, and which will not.</p>	Form 234 – FJPD

		Documents which are to be provided should be disclosed by way of letter to the Applicant or in an affidavit filed <u>within 28 days</u> , and reasons for non-disclosure must be provided.	
3.	Application for Discovery	<p>If the Applicant is of the view that the Respondent has not provided sufficient documents in response to the request, or has not responded at all to the request, an application for specific discovery can be filed.</p> <p>The application must be filed by summons, and supported by affidavit. In the affidavit, the Applicant must list the documents being sought, the attempts to request for discovery, and the documents provided by the Respondent (if they are inadequate).</p> <p>The reasons for seeking disclosure of the specific documents, or particular timeframes of documents, must also be set out in the affidavit.</p>	Form 237 – FJPD
4.	Reply Affidavit to Discovery	<p>The reply affidavit is filed by the Respondent in response to the Application for discovery and served on the Applicant <u>within 14 days</u> after the service of the application.</p> <p>The reply affidavit is the Respondent’s response to the affidavit filed in support of the application for discovery, and may contain the reasons the Respondent is unable to provide the documents requested.</p> <p>The Respondent may also provide copies of the documents requested in the reply affidavit.</p>	
5.	Hearing of Application for discovery	<p>After the Respondent’s reply affidavit is filed, the hearing of the application for discovery is fixed.</p> <p>During the hearing, the Court will determine whether the documents sought are relevant and necessary, and if the</p>	

	<p>documents are in the possession power and control of the Respondent.</p> <p>At the conclusion of the hearing, the Court will decide whether to order disclosure of all or some of the documents requested for, or dismiss the application completely.</p> <p>When ordering the Respondent to disclose documents, the Court will give the Respondent a timeframe to file an affidavit to exhibit the documents, or to explain why the documents cannot be provided.</p>	
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II. Some Commonly Requested Items for Discovery

- 4.5 The table below sets out some examples of commonly requested items for discovery which may also be dealt with at case conferences. The timeframe here is a general one and may vary depending on the specific facts.

	Document	Time Frame	Reason for Request
1.	Payslips	6 months prior to filing of the Affidavit of Assets and Means ("AOM").	To ascertain Respondent's income and ability to contribute towards maintenance of a spouse or a child.
2.	Notices of Assessment issued by IRAS	3 years prior to filing of the AOM.	
3.	Central Provident Fund ("CPF") Statements setting out the balance in the	2 weeks prior to filing of the AOM.	To ascertain the current balances in the Respondent's CPF Ordinary, Special and

	respective Ordinary, Special and Medisave accounts.		Medisave accounts, as the monies in these accounts are matrimonial assets for division.
4.	CPF Statements setting out the amount of CPF funds contributed by one party to the acquisition of a property.	2 weeks prior to filing of the AOM.	To ascertain the financial contribution made by the Respondent to the acquisition of a property which is a matrimonial asset for division.
5.	Central Depository (Pte) Ltd (" CDP ") statements	3 months prior to filing of the AOM.	To ascertain whether the Respondent owns shares in the Respondent's own name, as these shares would be a matrimonial asset for division.
6.	Statement or Letter from [Insurance company] confirming the surrender value of an insurance policy [serial no.]/ [all insurance policies held in the Respondent's name]	2 weeks prior to filing of the AOM.	To determine the surrender value of the insurance policy, which is a matrimonial asset for division.
7.	Documents in support of the monthly expenses claimed by the Respondent or the parties' children.	Depends on the nature of expenses.	To verify whether the monthly expenses are being incurred.
8.	Monthly statements for the bank accounts held solely or jointly in the Respondent's name.	3 months prior to filing of the AOM.	To verify the sources of income of the Respondent, as well as the expenses incurred by the Respondent on a regular basis.

9.	Monthly statements of the credit cards held in the Respondent's name.	3 months prior to filing of the AOM.	To verify the expenses incurred by the Respondent on a regular basis.
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C. Interrogatories

I. Timeline

4.6 Applications for interrogatories may only be filed after the Applicant has already sent a written request to the Respondent to answer the questions and there has been insufficient or no response to the questions. A general timeline is set out below. These timelines can be extended by agreement of the parties, or by directions from the court. The court can also deal with these issues at case conferences in line with the judge-led approach for the expeditious and economical disposal of such issues.

	Stage	Description	Applicable Form
1.	Written Request for Interrogatories	<p>The request is made by the Applicant, and must be served on the Respondent.</p> <p>In the request, the Applicant sets out the questions that the Respondent is required to answer, and the reason these answers are required.</p> <p>The reasons for the request may sometimes be related to a particular document or a statement made in a specific document filed in the proceedings. In this case, the Applicant must refer to the relevant document, page and paragraph number.</p>	Form 235 – FJPD
2.	Notice in Response to Interrogatories	<p>The notice is given by the Respondent, and must be served on the Applicant <u>within 14 days</u> after service of the request.</p> <p>In the notice, the Respondent will state which of the requested answers will be provided, and which will not.</p> <p>The answers which are provided must be set out in an affidavit to be filed <u>within 28 days</u>.</p>	Form 236 – FJPD

3.	Application for Interrogatories	<p>If the Applicant is of the view that the Respondent has not provided sufficient answers in response to the request, or has not responded to the request at all, an application for interrogatories can be filed.</p> <p>The application must be filed by summons, and supported by affidavit. In the affidavit, the Applicant must list the interrogatories sought, the attempts to request for interrogatories and the responses provided by the Respondent.</p> <p>The reasons for seeking answers to the questions set out in the interrogatories must also be set out in the affidavit.</p>	Form 238 – FJPD
4.	Reply Affidavit to Interrogatories	<p>The reply affidavit is filed by the Respondent in response to the Application for interrogatories and served on the Applicant within 14 days after the service of the application.</p> <p>The reply affidavit is the Respondent’s response to the affidavit filed in support of the application for interrogatories and may contain the reasons the Respondent is unable to provide the answers requested.</p> <p>The Respondent may provide the answers requested in the reply affidavit.</p>	
5.	Hearing of Application for Interrogatories	<p>After the Respondent’s reply affidavit is filed, the hearing of the application for interrogatories is fixed.</p> <p>During the hearing, the Court will determine whether the answers to the interrogatories are relevant and necessary.</p> <p>At the conclusion of the hearing, the Court will decide whether to order the Respondent to answer all or some of the interrogatories requested for, or dismiss the application completely.</p>	

	When ordering the Respondent to answer the interrogatories, the Court will give the Respondent a timeframe to file the affidavit with these answers.	
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I. Some Commonly Requested Interrogatories

4.7 The table below sets out some examples of commonly requested interrogatories.

Interrogatory	Reason for Interrogatory
<p>Please state the purpose of the following deposits/withdrawals from your [bank account number with specific bank] which exceed the amount of [amount]</p> <p>Date Amount [Date] [Amount]</p>	<p>To provide an explanation for withdrawals from or deposits into a specific bank account held by the Respondent. This request would be relevant and necessary only where the amount concerned is unexpected or sizeable in nature – for example where the amounts withdrawn or deposited comprise a large portion of the Respondent’s declared income.</p>
<p>Please state the source of funds used to pay the sum of [amount] in order to acquire [name of asset]. If the monies were transferred from a bank account which is held jointly or solely in your name, please confirm the (a) name of the bank (b) account number (c) current balance in the account.</p>	<p>To understand the source of the Respondent’s financial contribution to the acquisition of a specific matrimonial asset. If the monies were derived from a bank account in the Respondent’s name, which has not been declared, this could lead to the discovery of an undisclosed matrimonial asset.</p>

D. Summary of Positions in Discovery/Interrogatories

4.8 To assist the Court in understanding which items are still outstanding at the time of hearing, parties should submit the following table at the hearing of the application.

S/No.	Requested Item for Discovery/Interrogatories	Reason given for Request	Reason for Not disclosing	Applicant still seeking request?
Discovery				
1.				
Interrogatories				
1.				

E. Failure to comply with orders for Discovery or Interrogatories

4.9 If a Respondent fails to comply with an order to provide documents or answers to interrogatories or fails to provide full and frank disclosure, the Court may draw an adverse inference against that Respondent if the non-disclosure is material or there is evidence that the Respondent has hidden/dissipated matrimonial assets. Failure to comply with such an order to provide documents or answers to interrogatories may also form the basis for an application for committal against the Respondent.

5 Interim Applications for Custody, Care and Control

A. Introduction

5.1 Applications for interim custody, care and control, and access are usually filed by way of Summons application in a Writ or OS action. Orders made in such applications are usually interim pending the final orders made at the OS, or ancillary matters, hearing.

B. Custody Care and Control

5.2 Custody, care and control and access are broadly defined as follows:

- a) Custody – Custody is the right to make long term decisions affecting the child’s welfare, such as the Child’s school, the religion of the Child and any major medical treatment for the Child. Generally, joint custody is ordered, which means that both parents will have to consult each other and agree on the issues relating to custody. Sole custody can also be awarded to one parent, who will then be able to make unilateral decisions relating to custody.
- b) Care and Control – This is the right to make day to day decisions concerning the Child’s upbringing and welfare and where the Child will reside. In some cases, shared care and control may be ordered, which means that the Child will spend an almost-equal amount of time with each parent. When the Child is with that respective parent, that parent would have the right to make the day to day decisions for the Child.
- c) Access – The parent who does not have care and control of the Child will be given access to the Child, that is, time spent with the Child on certain weekdays and/or weekends. That parent may also be given access during the Child’s school holidays, including overseas holiday access, and on public holidays.

C. Content of Affidavit – Factors to Consider

- 5.3 Applications for interim custody, care and control and access are to be filed as Summons applications, supported by affidavit.
- 5.4 As the paramount consideration of the Court hearing the matter is the best interests of the Child, the affidavit should address specific issues relating to the care and welfare of the Child, and why one particular parent is in a better position to care for the Child. Some of the issues that should be commonly addressed in such an application are set out below.
- a) Background – The age of the parties, the children, when the parties were married (if applicable).
 - b) Education – The current educational status of the Child. If the Child is in childcare, is it full day or half day? If the Child goes to primary/secondary school, where does the Child go to school and does the Child attend student care?
 - c) Caregiving – What is the role played by each parent in the care of the Child? Do both parents work, and do they travel frequently or are their working hours long or irregular? Who is responsible for fetching the Child to and from school every day and do grandparents, other relatives or domestic helpers play a caregiving role?
 - d) Schedule – A table setting out how the Child spends his/her time during the week. This includes school and any enrichment activities. A sample of such a table is set out below.

Day of the Week	Activities
Monday	<p>9.00am to 12.00pm – School.</p> <p>12.00pm to 5pm – Studentcare.</p> <p>5pm onwards – With Mother/Father – Bedtime at 8pm.</p>
Tuesday	<p>9.00am to 12.00pm – School.</p> <p>12.00pm to 5pm – Studentcare.</p> <p>5pm onwards – With Mother/Father – Bedtime at 8pm.</p>
Wednesday	<p>9.00am to 12.00pm – School.</p> <p>12.00pm to 3pm – Studentcare.</p> <p>3pm to 5pm – Swimming Class</p> <p>5pm onwards – With Mother/Father – Bedtime at 8pm.</p>
Thursday	<p>9.00am to 12.00pm – School.</p> <p>12.00pm to 5pm – Studentcare.</p> <p>5pm onwards – With Mother/Father – Bedtime at 8pm.</p>
Friday	<p>9.00am to 12.00pm – School.</p> <p>12.00pm to 5pm – Studentcare.</p> <p>5pm onwards – With Mother/Father – Bedtime at 8pm.</p>
Saturday	<p>Morning to 10am – With Mother/Father</p> <p>10am to 8pm – With Father/Mother – Child attends Chinese Language Class from 3pm to 5pm.</p> <p>8pm onwards – With Mother/Father – Bedtime at 9pm.</p>
Sunday	<p>Morning to 12pm – With Mother/Father – Child attends Music classes from 10am to 12pm.</p> <p>12pm to 8pm – With Father/Mother</p> <p>8pm onwards – With Mother/Father – Bedtime at 9pm.</p>

D. Mediation and Counselling

5.5 In divorce cases where the parties have not agreed on custody care and control, or access issues for children under the age of 21, it is mandatory for the parties to attend mediation and counselling at the Family Dispute Resolution (“FDR”) division. The Court may also direct parties and the Children to be referred to counselling or for reports to be prepared on the contested child issues. The types of programs and reports which the Court may order are set out below.

Programs/Reports	Description	When Ordered/Referred
Children-in-Between (“ CiB ”) programme	<p>Conducted by Divorce Support Specialist Agency.</p> <p>The CiB programme is an evidence-based programme developed by child experts. It has two components to meet the needs of parents and children:</p> <p>a) The parent component is designed to highlight ways in which children can be caught in the middle of their parents’ emotional conflict. This is with the aim to improve co-parenting cooperation and reduce parental conflicts.</p> <p>b) The child component is a skills-based programme to equip children with the necessary skills to manage their feelings and to develop resilience despite their parents’ divorce.</p>	<p>Usually ordered post-order or during proceedings</p> <p>Programme is for cases with at least one child between <u>6 and 15 years of age</u> (Only children within this age range need to attend the programme.</p> <p>Only for English speaking parents and children.</p>

<p>Divorce Support Specialist Agency (“DSSA”) Counselling</p>	<p>Conducted by the Divorce Support Specialist Agency.</p> <p>The DSSAs provide counselling to further support and assist parents and children on the issues arising in the aftermath of divorce such as parenting/co-parenting, children’s arrangements and emotional well-being.</p>	<p>Usually referred post-order or during proceedings.</p> <p>For parents and children who are affected by divorce, family disputes or family problems</p>
<p>Custody Evaluation Report</p>	<p>Provides recommendation to the court on custody, care and control and access, that will best meet the child’s interests.</p> <p>Report is done by the Ministry of Social and Family Development’s (“MSF”) appointed agency where at least one of the children in the family unit is <u>under 8 years old</u>. MSF may conduct home visits.</p> <p>Report is done by the FJC’s Counselling and Psychological Services (“CAPS”) Court Family Specialist if the children in the family unit are above <u>8 years old</u>. CAPS will not conduct home visits.</p>	<p>Ordered during proceedings, generally in cases involving allegations of family violence, child abuse, child neglect and parental alienation.</p>
<p>Access Evaluation Report</p>	<p>For assessment of the underlying problems in access arrangements.</p> <p>Done by CAPS Court Family Specialist.</p>	<p>The children involved should be above <u>8 years old</u>.</p> <p>Ordered during proceedings, generally in cases that have not been referred for DSSA</p>

		<p>supervised visits/supervised access.</p> <p>No home visits will be conducted by CAPS.</p>
Specific Issues Report	<p>Brief reports to address specific queries related to the case.</p> <p>Done by CAPS Court Family Specialist.</p>	<p>The children involved should be <u>above 8 years old</u>.</p> <p>Ordered during proceedings.</p> <p>The Court may specify what issue(s) are to be addressed in the report or select up to 3 issues from the referral form.</p> <p>No home visits will be conducted by CAPS.</p>
Appointment of a Child Representative (“ CR ”)	<p>A Child Representative is a trained legal professional appointed by the Court to understand and present the child's best interests to the Court, thereby assisting the Court in coming to a decision/order on child arrangements post-divorce.</p>	<p>The children involved should be <u>at least 7 years old</u> or able to communicate independently with the CR.</p> <p>Referral is made during proceedings.</p> <p>The Court may specifically state issue(s) to be addressed in the CR’s submissions which will be e-filed by the CR.</p> <p>Judge is to order first-tier costs fixed at <u>\$1,000</u> to be paid by both parties equally (or any other proportion) within 14 days of appointment of the CR.</p>

Appointment of a Parenting Coordinator	A Parenting Coordinator is a legal or social science professional appointed by the Court to assist in the implementation of parenting and/or access orders and/or to assist with parties' parenting and/or access arrangements.	For cases where parties have difficulty implementing the parenting or access orders.
Child Interview	Where a Judge interviews a child or children to ascertain their wishes, sometimes with assistance of a CAPS Court Family Specialist.	For cases where the child(ren) are at least 7 years old.
Child Assessment by Private Psychiatrist	Done by a private psychiatrist, upon an order being granted by the Court.	Only in certain cases where an expert's assessment is required by the Court. Leave of Court is required if any party wishes to send any child for assessment by an expert for the purposes of custody care and control and access proceedings.

E. Supervised Access/Visitation

- 5.6 In cases where parents need a safe and neutral environment to spend time with their children, the Court may order Supervised Exchange or Supervised Visitation conducted by the Divorce Support Specialist Agencies:
- a) Supervised Exchange – A case worker would supervise the transfer of the child(ren) from the care and control parent to the access parent and vice versa, but access itself

is not supervised. Supervised Exchange can be conducted one-way or two-ways (both handover and return).

- b) Supervised Visitation – A case worker would supervise the access between the access parent and child at the agency’s premises or any other suitable venue at the discretion of the agency.

5.7 The Court may order up to a maximum of 8 sessions of Supervised Exchange/Visitation per order, where necessary. This could be a mixture of face to face sessions, and remote conferencing sessions. The court may also order a subsequent access review once the ordered Supervised Exchange/Visitation sessions have concluded.

5.8 Please note that Supervised Exchange/Visitation will not be ordered where both parties are not Singaporean and the child is not a Singaporean. In such cases, the parties will have to make their own arrangements with other agencies for supervised access/transfer arrangements, if necessary.

F. Sample Orders for Custody, Care and Control and Access

- a. Some sample orders for Custody, Care and Control and Access are set out in the table below.

Order	Sample Description
Joint Custody	That both the Mother and Father have joint custody of the Children.
Sole Custody	That the Mother/Father be given sole custody of the Children.
Care and Control	That the Mother/Father shall have care and control of the Children.

Shared Care and Control	That the Mother/Father shall have shared care and control of the Children, who shall spend alternate periods of [number or days/weeks] with the Mother/Father, with the Mother/Father having the first period beginning [date] .
Regular Access	That the Mother/Father be given access to the Children as follows: <ul style="list-style-type: none"> a) Access on [day of week] from [time] to [time] b) Overnight access from [day of week, time,] to [day of week, time]
Public Holiday Access	Public holiday access will take place from [time] to [time] on the date of the Public Holiday. Parties will alternate public holiday access, and this will start with Mother/Father taking [Public holiday] in [year] . Public holidays refer to gazetted public holidays that do not fall during [specify exclusions, e.g. during each party's School Holiday Access, CNY eve, CNY Day 1 and CNY Day 2]
School Holiday Access	Parties will have alternate halves of the following school holidays with the Mother/Father taking the first half of each holiday period in [year] : <ul style="list-style-type: none"> a) [specify the school holiday e.g. the mid-year and end-year school holidays] b) [specify the school holiday e.g. the mid-year and end-year school holidays] Pick up for the Mother/Father for the school holiday access will be at [time] on the first day of school holiday access, and return will be at [time] on the last day of school holiday access.

Chinese New Year Access	<p>Parties will alternate Chinese New Year (“CNY”) access as follows:</p> <ul style="list-style-type: none"> a) CNY Eve – [time] to [time] with the Mother/Father starting in [year]. b) CNY Day 1 – [time] to [time] with the Father/Mother starting in [year]. c) CNY Day 2 – [time] to [time] with the Mother/Father starting in [year].
Overseas Travel	<p>Each parent will be permitted to take the Children for overseas travel when the Children are with them during their School Holiday Access.</p> <ul style="list-style-type: none"> a) The itinerary, flight, accommodation and contact details will be disclosed to the non-travelling parent in writing, [period of notice] before the travelling parent’s School Holiday Access begins. b) The Children’s passports will be given to the travelling parent together with the Children when that parent’s School Holiday Access begins. c) The Children’s passports will be returned to the care and control parent together with the Children when the access parent’s School Holiday Access ends.
Pick Up and Return for Access	<p>The Mother/Father will pick up the Children from the [location and address of pick up point]. The Children will be returned to [location and address of return point].</p>

6 Applications for Interim Maintenance

A. Introduction

6.1 Applications for interim maintenance for a wife and/or children are usually filed by way of Summons application in a Writ or OS action. Orders made in such applications are usually interim pending the final orders made at the OS, or ancillary matters, hearing.

B. Maintenance

6.2 Maintenance generally covers the living expenses of the wife or children, and is usually ordered to be paid as a monthly sum to a specified bank account. In certain cases, the Court may order the party to make payment directly to a specific vendor, e.g. for payment of school fees or enrichment classes. Alternatively, the Respondent may be ordered to reimburse the Applicant for incurring certain expenses upon the production of receipts.

C. Contents of Affidavit – Factors to Consider

6.3 Applications for interim maintenance are to be filed as Summons applications supported by affidavit. In determining the amount of maintenance to be ordered, the Court will generally consider the means or earning capacity of both spouses, as well as the expenses of the parties, children and the household.

6.4 The affidavit supporting such an application should address the following:

- a) Background – The age of the parties, the children, when the parties were married.
- b) Means and earning capacity of the parties – What the parties do for a living, what is their take home income or their last-drawn pay. Copies of the parties' IRAS Notice of Assessment and recent payslips should be attached to verify their take home income.

If one party is unemployed, factors such as the period of unemployment, reasons for continuing unemployment as well as evidence of attempts to find employment should also be addressed in the affidavit.

- c) Expenses – The expenses of the parties and the children should be set out in table form. This is explained below.

D. Table of Expenses

- 6.5 The expenses of the parties and the children should be set out in the following table form, with supporting documents exhibited. If there are expenses which are shared between one party and the children, the relevant proportion of expenses should be set out.

Shared Expenses

Description	Amount	Supporting Documents at page (xx) of Affidavit
Housing (rental of a room/apartment or mortgage payments)	\$xxx	1-3
Utilities	\$xxx	3-8
Internet	\$xxx	9-20
Car Loan	\$xxx	21-24
Car Insurance	\$xxx	25-31
Road Tax	\$xxx	32
Petrol	\$xxx	33-35
Miscellaneous	\$xxx	36-40
Total	\$xxx	

Personal Expenses (Spouse)

Description	Amount	Supporting Documents at page (xx) of Affidavit
Mobile Phone	\$xxx	41-43
Insurance	\$xxx	44-49
Food & Groceries	\$xxx	50-56
Eating Out	\$xxx	57-60
Medical	\$xxx	61-64
Clothes	\$xxx	65-69
Toiletries	\$xxx	70-72
Travel/Holiday	\$xxx	73-79
Miscellaneous	\$xxx	80-82
½ of Shared Expenses	\$xxx	
Total	\$xxx	

Child's Expenses

Description	Amount	Supporting Documents at page (xx) of Affidavit
Mobile Phone	\$xxx	83-88
Insurance	\$xxx	89-90
Food & Groceries	\$xxx	91-94
Eating Out	\$xxx	95-99
Medical	\$xxx	100-112
Clothes	\$xxx	113-119
Toiletries	\$xxx	120-121

Travel/Holiday	\$xxx	122-130
School Fees	\$xxx	131-140
Pocket Money	\$xxx	141-142
Enrichment Lessons	\$xxx	143-147
Childcare/Studentcare	\$xxx	148-149
Miscellaneous	\$xxx	150
½ of Shared Expenses	\$xxx	
Total	\$xxx	

E. Comparative Tables

6.6 If the Respondent in an application for interim maintenance disputes the expenses claimed by the Applicant, he should state his position in a comparative table set out in his reply affidavit.

6.7 A sample of such a comparative table is set out below.

Comparative Positions on Expenses

Description	Applicant's Position	Respondent's Position	Respondent's Remarks
Mobile Phone	\$xxx	\$xxx	
Insurance	\$xxx	\$xxx	
Food & Groceries	\$xxx	\$xxx	
Eating Out	\$xxx	\$xxx	
Medical	\$xxx	\$xxx	
Clothes	\$xxx	\$xxx	

Toiletries	\$xxx	\$xxx	
Travel/Holiday	\$xxx	\$xxx	
Miscellaneous	\$xxx	\$xxx	
½ of Shared Expenses	\$xxx	\$xxx	
Total	\$xxx	\$xxx	

6.8 The column marked "Respondent's Remarks" should give the reasons why the Respondent disagrees with the amount of expenses claimed by the Applicant.

F. Sample Orders

6.9 Some sample orders for maintenance are set out in the table below.

Order	Sample Description
Monthly cash payment	<p>The [Respondent] shall pay the [Applicant] monthly maintenance of [\$xxx], for the following:</p> <ul style="list-style-type: none"> a) [Applicant] – [\$xxx] a month. b) [Child], the child of the marriage – [\$xxx] a month. <p>Payment of the above maintenance shall be transferred to the [Applicant's] [bank account details] on the [xx] day of each month with effect from [date].</p>
Payment of Specific Expenses	<p>The [Respondent] shall make payment directly to the respective vendors in respect of the following expenses:</p> <ul style="list-style-type: none"> a) [%] of the [Child's] childcare fees, up to a limit of [\$xxx] per month. b) [%] of the [Child's] medical expenses, up to a limit of [\$xxx] per month.

	<p>Payment of the above expenses shall be paid within [xx] days after the invoices for the above are provided in writing. If the [Applicant] has already paid the above expenses, then the [Respondent] will reimburse the [Applicant] within [xx] days after the invoices and receipts for the above are provided in writing.</p>
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CPF Toolkit

1 Introduction

- 1.1 In Singapore, the Central Provident Fund (“CPF”) is a compulsory comprehensive savings plan for working Singaporeans and permanent residents primarily to fund their retirement, healthcare and housing needs. CPF savings are intended for the benefit of the member himself and his/her family, upon retirement.
- 1.2 In the case of *Central Provident Fund Board v Lau Eng Mui* [1995] 2 SLR (R) 826, the Court of Appeal decided that in the unfortunate event of the irretrievable breakdown of the marriage, if it is found that the money in a CPF account was accumulated through a party’s effort and the effort of the spouse (direct or indirect), then the Court may effect a just and equitable division of these monies under section 112 of the Women’s Charter.
- 1.3 Many individuals opt to use their CPF funds to acquire immovable property. Once CPF funds are used this way, a charge is then created by the CPF Board against the property. This means that if the property is subsequently disposed of, the refund of the CPF monies take priority. In applying for orders regarding the division of immovable property where CPF funds were used to acquire the property, lawyers and parties must be aware of the prevailing CPF refund regulations to ensure that the orders they seek are consistent with these regulations.
- 1.4 Generally, the CPF refund regulations made under the CPF Act ensure that all CPF funds utilised by parties towards the acquisition of a property are refunded to parties’ respective CPF accounts upon the disposition (e.g. sale or transfer) of the property. A failure to do so can lead to a leakage of CPF funds, which is prevented under the CPF

Act. However, there are certain exceptional circumstances in which a partial refund or no refund of CPF funds is allowed, as explained below.

- 1.5 This Toolkit serves as a quick guide to important information on commonly-used CPF-related orders, when they are made and why it is important to consider the CPF regulations when seeking orders from the court.

2 Types of CPF Orders

1. THE CPF STANDARD ORDER FOR DISCLOSURE

- 2.1 This is commonly known as the 'CPF Standard Order'.
- 2.2 In cases where both parties participate in proceedings (with or without counsel), they would have to disclose their respective CPF contributions towards the matrimonial property, as well as the balances in their CPF accounts, via their Affidavits of Assets and Means ("AOMs"). This is usually done by parties accessing their CPF Account statement online using their SingPass or obtaining a hard copy of the relevant document(s) from the CPF Board.
- 2.3 In cases where one party is absent and does not participate in court proceedings, the CPF Standard Order is used to ascertain the amount of CPF funds used to acquire the matrimonial property by the absent litigant, as well as to ascertain the amount of CPF monies the litigant has in his account(s). This order states that the CPF Board is to disclose the relevant information on the absent litigant's CPF funds. This information is necessary for the ancillary matters hearing, in order for the court to effect a just and equitable division of the assets.
- 2.4 The CPF Standard Order is usually made at a Case Conference (including Case Conferences at FDR), with consequential directions for the lawyer/self-represented litigant to serve the order on the CPF Board.
- 2.5 After the CPF Board has been served with the CPF Standard Order, they will respond with information on the amount used for the purchase of the matrimonial property if any (including accrued interest), and the balance in the party's various CPF accounts

(usually the Ordinary Account, Special Account, Medisave Account and Retirement Account if applicable). A copy of the latest version of the CPF Standard Order is attached as **Annex A**.

- 2.6 The response from CPF Board with the particulars of the absent party's CPF funds should be exhibited in an affidavit filed by the participating party before the ancillary matters hearing.

II. CPF ORDERS INVOLVING DIVISION OF PROPERTY UNDER S. 112 OF THE WOMEN'S CHARTER

- 2.7 At the hearing of the ancillary matters, the court may make orders dividing an immovable property for which CPF funds were used by the parties to pay for the property. When dealing with such orders, one must take into consideration the prevailing CPF rules and regulations governing the refund process.
- 2.8 In cases where a transfer of rights is ordered (e.g. Husband transfers his interest in the property to the Wife), the CPF refund ordered may be one of the following:
- a) A full CPF refund (i.e. including the interest accrued on the principal sum used);
 - b) A partial CPF refund (i.e. a specific monetary sum which is less than the full CPF refund in (a) above); or
 - c) No CPF refund.
- 2.9 In scenarios (b) and (c) above, if the spouse who retains the property subsequently sells the property, he/she is required to refund to his/her own CPF account the amount of the expected refund to the former spouse's CPF account. In other words, the former spouse's CPF funds which were not refunded in the transfer process are treated as the retaining spouse's own CPF funds when he/she subsequently disposes of the property.

- 2.10 In cases where a sale of the property is ordered, the preferred order of distribution of sale proceeds is:
- a) Payment of outstanding loan (and HDB resale levy where applicable);
 - b) Payment of the requisite CPF refunds in accordance with applicable CPF laws to all owners' respective CPF accounts;
 - c) Division of net cash proceeds.
- 2.11 The above manner of distribution ensures that each party's CPF account is refunded in full if there are enough sale proceeds to do so.
- 2.12 In the event that the court order provides for a party to get less than their full CPF refund [e.g. the Order of Court states that parties are to get equal shares of the asset, but the Husband's full CPF refund gives him an 80% share of the asset], the necessary adjustments can be made via a separate order for transfer of CPF monies (within the same Order of Court) to give effect to the court order [e.g. the Wife is entitled to \$x of the Husband's CPF funds from his Ordinary Account following the sale of the property, \$x being the equivalent of 30% of the asset].
- 2.13 To ensure consistency and compliance with prevailing CPF rules and regulations, CPF Board has drafted a document containing suggested clauses to be used in court orders which deal with CPF monies. A copy of the latest version of the CPF Suggested Clauses is attached as **Annex B**.

3 The CPF Checklist (“CL”)

- 3.1 The CPF Checklist (“CL”) was introduced in January 2019 and forms part of the FJC Practice Directions.
- 3.2 The introduction of the CL is part of CPF Board’s continuing efforts to facilitate the smooth division of assets in matrimonial proceedings.
- 3.3 The CL simply serves to make parties aware of the prevailing CPF refund policies, and has to be signed by both parties personally (not solicitors).
- 3.4 The CL applies to the following situations:
- a) Parties seek to record a consent order dealing with changes in ownership (e.g. sale, transfer etc.) of a property under section 112 or 121G of the Women’s Charter. This excludes parties who are obtaining an order for the property to be transferred (other than by way of sale) with partial or no CPF refunds; and
 - b) CPF monies have been withdrawn from any CPF account(s) in respect of the property. This includes using CPF monies to purchase the property, and/or pledging the property to withdraw monies from the CPF Retirement Account.
- 3.5 In ensuring that parties are made aware of CPF’s refund policies, this serves to reduce the number of post-order variation applications which may arise as a result of parties being unable to fulfil their CPF refund obligations.
- 3.6 In the majority of cases, parties would already be aware of CPF Board’s refund policies. In the event that parties have any questions about the CL and/or CPF Board’s refund policy, they should seek clarification from the CPF Board.

3.7 A copy of the latest version of the CPF Checklist is attached as **Annex C**.

4 Conclusion

- 4.1 CPF Board has provided a suite of tools to court users to assist them in crafting orders that are consistent with CPF legislation.
- 4.2 Judges, lawyers and parties are strongly encouraged to utilise these tools to avoid difficulties in giving effect to orders that will not be accepted by the CPF Board. Such difficulties may result in a delayed sale and/or costs incurred to vary the court order.

Annex A

CPF Board Revised Version 1 July 2018

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

Divorce)

No.)

of)

Between

_____)
Plaintiff / Petitioner (NRIC No.*

And

_____)
Defendant / Respondent (NRIC No.*

ORDER OF COURT

1. **Date of Order:**
2. **Nature of Hearing (in Chambers):**
Oral application by Plaintiff's / Petitioner's* counsel
3. **Name of Registrar/Judge* Making the Order:**
4. **Parties Present at the Hearing:** Plaintiff's / Petitioner's* Counsel
5. **Orders Made**
 - (a) The CPF Board is to furnish the following information to the Plaintiff's / Petitioner's* solicitors as at the date of service of this Order on the Board^:
 - (i) The amount of CPF monies (including interest) utilised by the Defendant / Respondent* towards the purchase of the property known as [*to state full address of the property*]:

 - (ii) Did the Defendant / Respondent* (applicable only if aged 55 and above) use the property known as [*to state full address of the property*] as a security to withdraw

- any monies from his Retirement Account (RA)? If yes, what is the amount withdrawn?
- (iii) Has the Defendant / Respondent* (applicable only if aged 55 and above) met the Full Retirement Sum (FRS) in cash in the RA? If no, what is the amount required to be set aside or topped-up in the CPF member's RA to meet the FRS in cash?
 - (iv) Did the Defendant / Respondent* receive housing grants for the property known as [*to state full address of the property*] and as a result, needs to make refunds to his Special Account (SA) and/or RA and/or Medisave Account (MA)? If yes, what is the amount to be refunded to his SA and/or RA and/or MA, assuming the full amount of CPF monies (including accrued interest) utilised for the property is refunded to his CPF account?
 - (v) The amount of CPF monies standing in each of the Defendant's / Respondent's* CPF accounts.
 - (vi) The name of the financial intermediary, type and quantity of investments which the Defendant / Respondent* has under the CPF Investment Scheme – Special Account, where the Board has such information. Where information as to the quantity of the investments is not available to the Board, the Board is to provide the net amount withdrawn in respect of the investments¹ by the Defendant / Respondent*; and
 - (vii) The quantity of Discounted SingTel shares which the Defendant / Respondent* has.
 - (viii) The bank with which the Defendant / Respondent* has a CPF Investment Account for the purposes of the CPF (Investment Schemes) Regulations (Rg 9).
- (b) The agent bank(s) named in Clause 5(a)(viii) above to make written disclosure to the Plaintiff's / Petitioner's* solicitors of the following:
- (i) the name of the financial intermediary, type and quantity of the existing investment holdings of the Defendant / Respondent* under the CPF Investment Scheme as at the date of service of this Order on the agent bank, where the agent bank has such information. Where information as to the quantity of the investments is not

¹ The net amount withdrawn in respect of an investment is the total amount withdrawn for the investment less the amount of refunds made for the investment.

- available to the agent bank, the agent bank is to provide the total cost or weighted average cost, where applicable, of the investment by the Defendant / Respondent*; and
- (ii) any cash balance in the CPF Investment Account of the Defendant/Respondent* as at the date of service of this Order[^] on the agent bank, together with a letter from the CPF Board to the Plaintiff's / Petitioner's solicitors providing the information in **Clause 5(a)(viii)** of this Order.
- (c) The details of the Defendant / Respondent* in relation to the Lifelong Income Scheme established under Part IIIB of the Central Provident Fund Act:
- (i) the amount of CPF monies and / or cash utilised by the Defendant / Respondent* for the payment of premium;
- (ii) the type of annuity plan applicable to the member;
- (iii) the date of commencement of monthly income payable to the Defendant / Respondent*;
- (iv) whether the annuity plan provides for any refund upon death;
- (v) the amount of refund the Defendant / Respondent* is entitled to upon death, if any, as at the date of service of this Order on the Board[^]*; and
- (vi) the amount of monthly income payable to the Defendant / Respondent as at the date of service of this Order on the Board*⁺.
- (d) The Plaintiff / Petitioner* and his solicitors shall use the abovesaid information for the purposes of assisting the Court at the hearing of the application entitled above only and shall otherwise maintain the confidentiality of the information disclosed. In particular, except as provided for in **Clause 5(a)(viii)**, the Plaintiff / Petitioner and his solicitors shall not disclose to the agent bank any other information disclosed by the Board.

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Signed:

Registrar:

Date:

** Delete where inapplicable*

^ If the amount of CPF monies as at any other specific date is required, please state the date.

Please note that the amount of refund is the positive difference, if any, between the premium paid and the total amount of monthly income paid to the Defendant/Respondent.

+ Information on amount of monthly income payable is available only if payment has commenced. The Board can only give an estimate amount if otherwise.

Annex B

1

CPF B Revised Version 1 July 2018

SUGGESTED CLAUSES IN ORDER OF COURT FOR:

- (A) CHARGING OF MONIES IN CPF ACCOUNTS
- (B) SUBSEQUENT ORDER FOR CHARGING OF MONIES IN CPF ACCOUNTS IN EVENT OF SHORTFALL
- (C) TRANSFER OF PROPERTY
- (D) SALE OF PROPERTY
- (E) TRANSFER OR SALE OF INVESTMENTS UNDER CPF INVESTMENT SCHEME
- (F) PAYMENT OF MONIES FROM LIFELONG INCOME FUND⁺

ORDERS RELATING TO THE CHARGING OF MONIES IN CPF ACCOUNT(S)¹

- 1². The Plaintiff (hereinafter referred to as the “Spouse”) shall be entitled to S\$[] of the Defendant’s (hereinafter referred to as the “Member”) Central Provident Fund (“CPF”) monies pursuant to [section 112 of the Women’s Charter (Cap 353) / section 52(3)(d) of the Administration of Muslim Law Act (Cap. 3)*] (the “Ordered Amount”).

(Select clauses 2, 3, OR 4 where applicable)

+ Suggested orders relating to the payment of monies from the Lifelong Income Fund are set out in the **Annex**. These orders are relevant where the member has joined the Lifelong Income Scheme. The commencement and amount of monthly income under the Lifelong Income Scheme depends on the annuity plan that the member chooses. Monthly income will generally cease upon member’s death and there may not be any refund depending on the annuity plan applicable to the member. Please see the **Annex** for details. In view of the uncertainty of member’s entitlement under the Lifelong Income Scheme, parties may consider these suggested orders only as a last resort where there are no other available matrimonial assets for division.

* Please select one option and delete the other.

¹ Please refer to footnote 39 on loans or grants repayable to the Government before payment of monies under a charging order can be effected.

² This Clause should be included for all charging orders **together with** the relevant optional Clauses 2, 3 or 4.

Charging Orders In Favour Of Citizens Or Permanent Residents In Respect Of Monies Standing To The Credit Of Member's CPF Account(s)³

2(1)⁴ There shall be a charge imposed against the CPF monies standing to the credit of the Member's CPF account(s) in favour of the Spouse in the amount(s) specified as follows:

Member's CPF account(s) against which a charge is to be imposed ⁵	Amount to be charged
Ordinary Account	[\$]
Special Account	[\$]

2(2) In the event that the actual amount standing to the credit of the Member's account(s) stated above at the time when this order is served on the Central Provident Fund Board ("Board") is less than the amount charged under **Clause 2(1)**, the Board shall impose the charge only on such actual amount as is available (the "Charged Amount").

2(3) The Board shall pay to the Spouse in cash the Charged Amount or such amount as is payable after deducting the requisite sums under CPF laws –

- (a) after the Member has died or has become entitled to withdraw CPF monies from his CPF account(s) under section 15(2) or 27 of the Central Provident Fund Act (Cap.36) ("CPF Act"), whichever is earliest in time; and
- (b) upon an application by the Spouse for the withdrawal of the Charged Amount.

³ The headings in this document are for reference only.

⁴ **Clause 2** applies in relation to the charging of monies in Member's CPF account(s) and applies where Spouse is a citizen or permanent resident ("PR") of Singapore.

⁵ **For Members with Singaporean & PR Spouses:** The charge should be imposed against the monies withdrawable in cash in the Member's Ordinary Account ("OA") and / or Special Account ("SA"). As the obligation of the Member to set aside the Full Retirement Sum ("FRS") in his/her Retirement Account ("RA") takes priority over the payment to the spouse under the charging order, and CPF withdrawals in cash are generally made from the OA and/or SA, it would not be effective to impose a charge against the Member's RA and Medisave Account ("MA").

For Members with foreign spouses: The charge can be imposed against monies in any or all of the Member's accounts as foreign spouses are unable to obtain transfer orders. Further, payment to the foreign spouse under the charging order takes priority over setting aside the FRS in the Member's RA.

- 2(4) In the event the amount of monies paid to the Spouse is less than the Charged Amount, the Board shall, from the monies standing to the credit of the Member in the following CPF account(s) of the Member, transfer the amount(s) specified as follows to the Spouse's CPF account(s) in the following priority⁶:

Member's CPF account(s) to transfer from	Amount to transfer
(I) Ordinary Account	Difference between Charged Amount and amount paid to Spouse pursuant to the above charging orders ("Shortfall Amount")
(II) In the event the monies in the Ordinary Account are insufficient, Special Account	Difference between Shortfall Amount and amount transferred under (I)
(III) In the event the monies in the Ordinary and Special Accounts are insufficient, Medisave Account	Difference between Shortfall Amount and amounts transferred under (I) and (II)
(IV) In the event the monies in the Ordinary, Special and Medisave Accounts are insufficient, Retirement Account	Difference between Shortfall Amount and amounts transferred under (I), (II) and (III)

⁶ This clause 2(4) only applies where the Spouse is a Singaporean or PR and is for illustrative purposes only. It is an optional clause, and parties can decide whether they wish to include it in their court order or not. For the Court / parties to decide on the appropriate priority for each case. Please also refer to regulation 3 of the Central Provident Fund (Division of Fund-related Assets in Matrimonial Proceedings) Regulations for details on which of the Spouse's CPF accounts the Member's CPF monies will be transferred to.

Charging Orders In Favour Of Foreigners In Respect Of Monies Standing To The Credit Of Member's CPF Account(s)⁷

- 3(1) There shall be a charge imposed against the CPF monies standing to the credit of the Member's CPF account(s) in favour of the Spouse in the amount(s) specified as follows:

Member's CPF account(s) against which a charge is to be imposed	Amount to be charged
Ordinary Account	[\$]
Special Account	[\$]
**Medisave Account ⁸	[\$]
**Retirement Account ⁹	[\$]

- 3(2) In the event that the actual amount standing to the credit of the Member's account(s) stated above at the time when this order is served on the Board is less than the amount charged under **Clause 3(1)**, the Board shall impose the charge only on such actual amount as is available (the "Charged Amount").
- 3(3) The Board shall pay to the Spouse in cash the Charged Amount or such amount as is payable after deducting the requisite sums under CPF laws –
- after the Member has died or has become entitled to withdraw CPF monies from his CPF account(s) under section 15(2) or 27 of the Central Provident Fund Act (Cap.36) ("CPF Act"), whichever is earliest in time; and
 - upon an application by the Spouse for the withdrawal of the Charged Amount.

⁷ **Clause 3** applies in relation to the charging of monies in Member's CPF account(s) and applies where Spouse is a foreigner.

⁸ ** For the accounts that can be charged, please refer to **footnote 5**

⁹ ** For the accounts that can be charged, please refer to **footnote 5**

Charging Of Monies After Refund - In Favour of Citizens, Permanent Residents or Foreigners¹⁰

- 4(1) There shall be a charge imposed against the CPF monies standing to the credit of the Member's CPF account(s) in favour of the Spouse after the making of the refund of the required CPF monies in respect of the matrimonial home at (*state address*) [by the (*state party*) / from the sale proceeds of the matrimonial home*].
- 4(2) The charge under the above clause shall be imposed on the monies standing to the credit of the Member in the following CPF account(s) of the Member in the amount(s) specified as follows:

Member's CPF account(s) against which a charge is to be imposed ¹¹	Amount to be charged
Ordinary Account	\$[]
Special Account	\$[]
**Medisave Account ¹²	\$[]
**Retirement Account ¹³	\$[]

- 4(3) The Member is hereby ordered to sell or liquidate the following investment(s) held by the Member under the CPF Investment Scheme:

Description Of Specific Investment To Be Sold	Description of CPF Scheme Under Which Investments Are Held (CPFIS-OA, CPFIS-SA or SDS) ¹⁴	No. Of Units To Be Sold

¹⁰ Clause 4 applies in relation to the charging of monies in Member's CPF account(s) after the refund of monies to Member's CPF account(s) where Spouse is a citizen, PR of Singapore or foreigner.

¹¹ (a) Except in the situation set out in (b) below, all refunds will be credited to the Ordinary Account ("OA") and/or Special Account ("SA"). For members age 55 and above, the refunds will then be transferred from the OA and/or SA to the Retirement Account up to the Full Retirement Sum.

(b) Certain members (i.e. those who have received certain housing grants) will have refunds credited to their Medisave Account and/or Special Account and/or Retirement Account. Affected CPF members may login to view their Housing Withdrawal Statement online at www.cpf.gov.sg, with their SingPass, to view the amounts to be credited to their Medisave Account and/or Special Account and/or Retirement Account.

Please serve the court order on the Board before the property is sold and refunds credited. In any event, only monies in the OA and SA can be charged in respect of Members who are citizens or PRs (whether below or above 55). Please refer to **footnote 31** for the amount of refunds a member is required to make to his CPF Account(s) upon sale of the property.

¹² ** For the accounts that can be charged, please refer to **footnote 5**.

¹³ ** For the accounts that can be charged, please refer to **footnote 5**.

¹⁴ Investments can be bought with CPF monies under different schemes i.e. CPF Investment Scheme - Ordinary Account (CPFIS-OA) or CPF Investment Scheme - Special Account (CPFIS-SA) or Special Discounted Shares Scheme (SDS). Hence it is important to specify which scheme the investments were bought under to ensure that the correct investment(s) would be sold to comply with the court order.

4(4). All obligations to effect the sale of investments shall be on the Member and not on the Board.

4(5)¹⁵ Upon the making of the refund of monies from the sale or liquidation of the Member's investments indicated in this order ("investment refunds"), the Board shall, from the monies standing to the credit of the Member in the following CPF account(s) of the Member, impose a charge in respect of the amount(s) specified as follows:

Member's CPF account(s) against which a charge is to be imposed ¹⁶	Amount to be charged
Ordinary Account	\$[]
Special Account	\$[]
**Medisave Account ¹⁷	\$[]
**Retirement Account ¹⁸	\$[]

4(6) The Board shall only impose the charge after the Board has been notified¹⁹ of the sale of the property and / or investments and the refunds have been credited into the Ordinary and/or Special Account(s) of the Member.

4(7) In the event that the actual amount standing to the credit of the Member's account(s) stated above at the time when this order is served on the Board and after the making of the required CPF refunds into the Member's CPF account is less than the amount ordered to be charged under this **Clause 4**, the Board shall impose the charge only on such actual amount as is available (the "Charged Amount").

4(8) The Board shall pay to the Spouse in cash the Charged Amount or such amount as is payable after deducting the requisite sums under CPF laws –

- (a) after the Member has died or has become entitled to withdraw CPF monies from his CPF account(s) under section 15(2) or 27 of the Central Provident Fund Act (Cap.36) ("CPF Act"), whichever is earliest in time; and
- (b) upon an application by the Spouse for the withdrawal of the Charged Amount.

¹⁵ Please delete **Clauses 4(3) to 4(5)** if no order is made for the sale of CPFIS investments.

¹⁶ Please note that investment refunds will only be credited to OA or SA.

¹⁷ ** For the accounts that can be charged, please refer to **footnote 5**.

¹⁸ ** For the accounts that can be charged, please refer to **footnote 5**.

¹⁹ For investments, the notification must be through the "Transfer of Sale Proceeds Instruction (Division of Matrimonial Assets)" form available on the CPF website and at CPF Board service centres.

Charging Of Monies After Refund (In Favour of Citizens, Permanent Residents or Foreigners) & Subsequent Transfer Order (In Favour of Citizens or Permanent Residents) – Alternative Clauses

4A(1) The Plaintiff (hereinafter referred to as the "Spouse") shall be entitled to ("[\$] of the Defendant's (hereinafter referred to as the "Member") Central Provident Fund ("CPF") monies" pursuant to [section 112 of the Women's Charter (Cap. 353) / section 52(3)(d) of the Administration of Muslim Law Act (Cap 3)*] (the "Ordered Amount")²⁰.

4A(2) There shall be a charge imposed against the CPF monies standing to the credit of the Member's CPF Account(s) in favour of the Spouse after the making of the refunds into the Member's CPF account(s) of the required CPF monies from the sale proceeds of the matrimonial flat.

4A(3) The charge under the above clause shall be imposed on the monies standing to the credit of the Member in the following CPF account(s) of the Member in the amount(s) specified as follows:

Member's CPF account(s) against which a charge is to be imposed	Amount to be charged
(i) Ordinary Account	Ordered Amount
(ii) In the event the monies in the Ordinary Account are insufficient, Special Account	Difference between Ordered Amount and amount charged under (i)
(iii) **In the event the monies in the Ordinary and Special Accounts are insufficient, the Medisave Account ²¹	Difference between Ordered Amount and amounts charged under (i) and (ii)
(iv) **In the event the monies in the Ordinary, Special and Medisave Accounts are insufficient, the Retirement Account ²²	Difference between Ordered Amount and amounts charged under (i), (ii) and (iii)

4A(4) The Board shall only impose the charge after the Board has been notified of the sale of the property and the refunds have been credited into the CPF Account(s) of the Member.

²⁰ The Plaintiff (hereinafter referred to as the "Spouse") shall be entitled to [] % of the monies refunded to the Defendant's (hereinafter referred to as the "Member") CPF Account(s) from the sale of the matrimonial flat pursuant to section 112 of the Women's Charter (Cap. 353) / section 52(3)(d) of the Administration of Muslim Law Act (Cap 3) (the "Ordered Amount").

²¹ ** For the accounts that can be charged, please refer to **footnote 5**.

²² ** For the accounts that can be charged, please refer to **footnote 5**.

- 4A(5) In the event that the actual amount standing to the credit of the Member's account(s) stated above at the time when this order is served on the Board and after the making of the required CPF refunds into the Member's CPF account is less than the amount ordered to be charged under this **Clause 4A**, the Board shall impose the charge only on such actual amount as is available (the "**Charged Amount**").
- 4A(6) The Board shall pay to the Spouse in cash the Charged Amount or such amount as is payable after deducting the requisite sums under CPF laws –
- (a) after the Member has died or has become entitled to withdraw CPF monies from his CPF account(s) under section 15(2) or 27 of the Central Provident Fund Act (Cap.36) ("**CPF Act**"), whichever is earliest in time; and
 - (b) upon an application by the Spouse for the withdrawal of the Charged Amount.
- 4A(7) In the event the amount of monies paid to the Spouse is less than the Ordered Amount, the Board shall, from the monies standing to the credit of the Member in the following CPF account(s) of the Member, transfer the amount(s) specified as follows to the Spouse's CPF account(s) in the following priority²³:

Member's CPF account(s) to transfer from	Amount to transfer
(I) Ordinary Account	Difference between Ordered Amount and amount paid to Spouse pursuant to the above charging orders (" Shortfall Amount ")
(II) In the event the monies in the Ordinary Account are insufficient, Special Account	Difference between Shortfall Amount and amount transferred under (I)
(III) **In the event the monies in the Ordinary and Special Accounts are insufficient, Medisave Account	Difference between Shortfall Amount and amounts transferred under (I) and (II)
(IV) **In the event the monies in the Ordinary, Special and Medisave Accounts are insufficient, Retirement Account	Difference between Shortfall Amount and amounts transferred under (I), (II) and (III)

²³ This clause 4A(7) only applies where the Spouse is a Singaporean or PR and is for illustrative purposes. It is an optional clause, and parties can decide whether they wish to include it in their court order or not. For the Court / parties to decide on the appropriate priority for each case. Please also refer to regulation 3 of the Central Provident Fund (Division of Fund-related Assets in Matrimonial Proceedings) Regulations for details on where (i.e. to which of the Spouse's CPF accounts) the Member's CPF monies will be transferred to. Parties may also choose to include this clause after clause 4(8), if they have selected the clauses in that section.

SUBSEQUENT ORDER FOR CHARGING OF MONIES IN CPF ACCOUNTS IN EVENT OF SHORTFALL²⁴

- 5(1) The [Plaintiff/Defendant] (hereinafter referred to as the “Member”) shall pay to the [Defendant/Plaintiff] (hereinafter referred to as the “Spouse”) \$X towards/being* the balance payable by the Member to the Spouse under paragraph [x] of the order of court made on [date].

*(*delete where applicable. The word “towards” should be used if the amount in the 2nd order is still not enough to pay in full the amount ordered under the 1st order and a 3rd order may be required as and when a member has accumulated more monies in the member’s CPF account).*

- 5(2) There shall be a charge imposed against the CPF monies standing to the credit of the Member’s CPF account(s) in favour of the Spouse in the amount(s) specified as follows:

Member’s CPF account(s) against which a charge is to be imposed	Amount to charge
Ordinary Account	\$[]
Special Account	\$[]
**Medisave Account ²⁵	\$[]
**Retirement Account ²⁶	\$[]

²⁴ **Clause 5** applies where the Spouse did not receive the full Ordered Amount under the 1st Order and parties wish to obtain a further order to make up the shortfall. **Please do not delete and replace the 1st Order.**

²⁵ ** For the accounts that can be charged, please refer to footnote 5.

²⁶ ** For the accounts that can be charged, please refer to footnote 5.

ORDERS RELATING TO A TRANSFER (OTHER THAN BY WAY OF SALE) OF PROPERTY^{27*}

Transfer (Other Than By Way Of Sale) Of Property To Spouse

6A²⁸. The matrimonial flat/property at [*state address*] shall be transferred (other than by way of sale) to the Spouse.²⁹

- upon [*state party*] making the full required CPF refunds to the Member's CPF account(s); OR
- upon [*state party*] making CPF refunds of \$[] to the Member's CPF account(s), being only part of the required CPF refunds; OR
- with no CPF refunds to be made to the Member's CPF account(s).

²⁷ Please refer to **footnote 39** on loans or grants repayable to the Government before transfer of property can take place.

²⁸ **Clause 6A** relates to a transfer of property to the Spouse where Spouse is a citizen or PR of Singapore.

²⁹ Please select one of the applicable options and delete the rest.

* If the parties' intention is for the **matrimonial flat** / property to be transferred with full / partial CPF refunds, and there is no intention for a separate charging of either party's CPF, then do **not** include any of the Suggested Clauses relating to the charging of CPF (set out at paragraphs 1 to 5 of these Suggested Clauses) in the order."

ORDERS RELATING TO SALE OF PROPERTY

6B. The matrimonial flat/property at *[state address]* shall be sold in the open market / to the Spouse at or above market value. The sale proceeds shall be apportioned as follows *[please choose option (a) or (b) as appropriate for the property involved]*:

(a)	For sale of HDB flats with bank loans or private properties with or without bank loans ³⁰	<p>(i) To make full payment of the outstanding housing loan to the bank (if any);</p> <p>(ii) To pay the requisite CPF refunds in accordance with applicable CPF laws to all outgoing owners' respective CPF accounts;</p> <p>(iii) <i>[to indicate other payments including HDB resale levy (if any) and how net proceeds, if any, are to be apportioned]</i>.</p>
(b)	For sale of HDB flats with HDB loans or without any loans	<p>(i) To make full payment of the outstanding housing loan to HDB (if any);</p> <p>(ii) To pay the HDB resale levy (if any);</p> <p>(iii) To pay the requisite CPF refunds in accordance with applicable CPF laws to all owners' respective CPF accounts;</p> <p>(iv) <i>[to indicate other payments and how net proceeds, if any, are to be apportioned]</i>.</p>

6C. Unless expressly provided for in the CPF Act, nothing in the orders herein shall be taken to affect the Board's statutory charge on the matrimonial home or any other immovable property owned by one or both of the parties and which is the subject of this order of court. The requisite refunds to be made to the respective parties' CPF accounts upon the sale, transfer, assignment or otherwise disposal of such immovable property shall be made in accordance with the CPF Act and the subsidiary legislation made thereunder.

³⁰ For a private property bought before 1 September 2002, if there has been no refinancing after that date for the property, the priority for distribution of sale proceeds is as set out in the Deed of Arrangement between the Board, the member(s) and the mortgagee. Please contact the Board for further details on the priority of the distribution of sale proceeds to be made upon sale of such a property.

6D³¹. In the event the sale proceeds are insufficient to pay the requisite CPF refunds to either owner's CPF accounts, upon the sale of the matrimonial flat/property,

- each party shall be responsible for topping-up the shortfall to his/ her own CPF account in cash; OR
- [state name of party] shall be responsible for topping-up the shortfall to [state name of party]'s CPF account in cash,

and such shortfall shall be topped-up in one lump sum at the time of completion of the sale.

³¹ If the property is sold at below market value or if parties wish to divide sale proceeds prior to making the requisite CPF refunds, the net proceeds / each party's respective share may not be sufficient to make the full requisite CPF refunds. **The Board requires any shortfall to be topped-up in cash** in order for the sale of property to be completed. Hence, parties should state in the court order who has the obligation to top-up the shortfall.

Generally, the amount of requisite CPF refunds is the lower of the following: a) the amount withdrawn by the member and used towards the purchase of the property together with accrued interest, plus the amount withdrawn from Retirement Account by voluntarily pledging the property if any; or b) the net proceeds of the sale after making full payment of any outstanding housing loans or HDB levies (please refer to **Clause 6B**). Members may also view the amount withdrawn from their own CPF accounts for the purchase of the property and the amount to be refunded when the property is sold at www.cpf.gov.sg by logging in with their SingPass. Please note the information is correct as at the date it is viewed. Members should check for the latest update, if any, to the online statement.

ORDERS RELATING TO TRANSFER OF INVESTMENTS UNDER CPF INVESTMENT SCHEME

7³². The Member shall transfer his interest in the following investment(s) made by him under the CPF Investment Scheme to the Spouse:

Specific Investment To Be Transferred	Description of CPF Scheme Under Which Investments Are Held (CPFIS-OA, CPFIS-SA or SDS) ³³	No. Of Units To Be Transferred ³⁴

8. In the event that this order for transfer of investments results in fractions of shares or units, the remaining fraction of shares shall be transferred to the Spouse.
9. If the Member does not have the requisite number of shares or units of any of the investment(s) stated in this order at the time the Member is to effect the transfer to the Spouse, the Member shall transfer all remaining available number of shares or units of the said investment(s) to the Spouse³⁵.
10. The Member shall not dispose of the specified investment(s) above other than in accordance with the terms of this order.
11. All obligations to effect a transfer of investments shall be on the Member and not on the Board.
12. The Spouse shall open the necessary accounts with the relevant financial intermediaries³⁶ to facilitate the transfer of investments.

³² Clause 7 applies in relation to transfers of investments under the CPF Investment Scheme from the Member to the Spouse where the Spouse is a citizen or PR of Singapore.

³³ Investments can be bought with CPF monies under different schemes, ie CPF Investment Scheme - Ordinary Account (CPFIS-OA) or CPF Investment Scheme - Special Account (CPFIS - SA) or Special Discounted Shares Scheme (SDS). Hence it is important to specify which scheme the investments were bought under to ensure that the correct investment(s) are transferred to comply with the court order.

³⁴ The number of units to be transferred should be indicated as tradable lot sizes otherwise transfer cannot be effected by the financial intermediaries.

³⁵ This is to cater for the situation where a member's holdings may have been reduced by corporate actions, and the investments are liquidated in part. If all or part of the investments have been liquidated or trading is suspended, parties may wish to consider whether further directions are needed from the Court.

³⁶ Financial intermediaries refer to CPF Agent Banks, stockbroking companies, fund management companies, investment administrators, bond dealers, insurance companies etc. who hold CPFIS investments on behalf of the Member.

13. All fees, costs and charges involved in the transfer of investments shall be borne by the [state party] solely / by both parties jointly³⁷.

³⁷ Please note that under the CPF (Division of Fund-Related Assets in Matrimonial Proceedings) Regulations, if the order of court does not specify which party bears the fees, costs and charges, the party requiring to make the transfer has to bear such fees, costs and charges.

GENERAL ORDERS³⁸

14. The Member shall not withdraw or transfer or attempt to withdraw or transfer, any portion of the Ordered Amount, or the actual amount charged when it is less than the Ordered Amount, standing to his credit in his CPF accounts.
15. This order is made subject to the Central Provident Fund Act (Cap.36) (“CPF Act”) and the subsidiary legislation made thereunder (as well as any existing order of court dated [] in [Suit/Summons No.] made in respect of the Member’s CPF monies, property and investments. The Board shall give effect to the terms of this order, including the payment to the Spouse of any amount that has been charged, in accordance with the provisions of the CPF Act and the subsidiary legislation made thereunder³⁹.
16. The shortfall, if any, between the Ordered Amount and the payment received by her from the Board or transferred to her CPF account is a debt due from the Member to the Spouse and is recoverable as such.
17. The [Registrar or Deputy Registrar of the Family Justice Courts under section 31 of the Family Justice Act 2014 / the President or Registrar of the Syariah Court under section 53A of the Administration of Muslim Law Act*] is empowered to execute, sign, or indorse all necessary documents relating to matters contained in this order on behalf of either party should either party fail to do so within seven days of written request being made to the party.
18. The parties, including the Board, shall be at liberty to apply for further directions or orders generally.

³⁸ These General Clauses should be included where relevant. **Clauses 14 and 15** need not be included for orders relating to transfer of property or transfer/sale of investments without any consequent orders on charging of monies in CPF accounts.

³⁹ Please take note that one of the conditions imposed before a payment of monies to Spouse under section 27B of the CPF Act or a transfer or sale of property under sections 27E and 27F of the CPF Act can take place, is that loans or grants to the Member/Spouse which are repayable or refundable to the Government must be repaid or refunded first. Grants include housing grants and HOPE (Home Ownership Plus Education) grant from the Ministry of Social and Family Development (“MSF”).

CPF statements will not reflect details on government loans or grants to be repaid.

Hence, a Member or Spouse who is in receipt of any loans or grants has to check with the relevant authorities whether:

- (i) any amount is repayable immediately or upon the transfer or sale of the property; and
- (ii) if so, the exact amount to be repaid.

Please note that in addition, recipients of HOPE grants would have to inform MSF of the proceeding for divorce, judicial separation or nullity of marriage (where applicable).

It is important that the Court is informed of the details, in particular the amount to be repaid or refunded to the Government, before any order in relation to the division of matrimonial assets is sought.

ANNEX

ORDERS RELATING TO PAYMENT OF MONIES FROM LIFELONG INCOME FUND⁴⁰

- I. The Plaintiff (hereinafter referred to as the “Spouse”) shall be entitled to \$[] of the Defendant’s (hereinafter referred to as the “Member”) monies payable to him under the Lifelong Income Scheme established under Part IIIB of the Central Provident Fund Act (Cap. 36) (the “Scheme”) pursuant to [section 112 of the Women’s Charter (Cap 353) / section 52(3)(d) of the Administration of Muslim Law Act (Cap. 3)*] (the “Ordered Amount (Life Fund)”⁴¹).
- II. Subject to **Clause III**, the Board shall pay to the Spouse, from the monthly income payable to the Member from his annuity plan under the Scheme⁴², in satisfaction of the Ordered Amount (Life Fund).

(Select clause IIIA or IIIB where applicable)

- IIIA⁴³. The Board shall pay to the Spouse a monthly sum of up to []% of the Member’s monthly income under the Scheme provided that the total amount paid to the Spouse under this Clause shall not exceed the Ordered Amount (Life Fund).

OR

- IIIB⁴⁴. The Board shall pay to the Spouse a monthly sum of \$[] from the Member’s monthly income, or the Member’s monthly income, whichever is lower, under the Scheme provided that the total amount paid to the Spouse under this Clause shall not exceed the Ordered Amount (Life Fund).

⁴⁰ Monies payable under the Scheme will be paid from the Lifelong Income Fund established under section 27N of the CPF Act. This is a separate fund from the Central Provident Fund and hence suggested orders relating to monies payable under the Scheme and CPF monies are separately provided.

⁴¹ Please note that the “Ordered Amount (Life Fund)” only relates to monies payable under the Scheme and does **not** include CPF monies.

⁴² Please check with the Member on when payment of monthly income commences and the amount of monthly income payable as this depends on the type of annuity plan that the Member chooses. Please note that the monthly income will generally cease upon the member’s death. You may wish to refer to Part IIIB of the CPF Act and CPF (Lifelong Income Scheme) Regulations 2009 for details.

⁴³ This option is recommended as the amount of monthly income payable may change.

⁴⁴ If parties wish to state a fixed monthly sum to be paid to the Spouse, please note that the Board will make payment of the specified sum or the actual monthly income payable to the Member, whichever is lower.

- IV. The Board shall pay to the Spouse the Ordered Amount (Life Fund) as is payable –
- (a) after the Member has become entitled to the monies referred to in **Clause I**; and
 - (b) upon an application by the Spouse for the withdrawal of the Ordered Amount (Life Fund).

CHARGING OF MONIES STANDING IN CPF ACCOUNT(S) AFTER REFUND FROM LIFELONG INCOME FUND⁴⁵

- V⁴⁶. Upon the making of the refund of the whole or any part of the premium for the annuity plan under the Lifelong Income Scheme established under Part IIIB of the Central Provident Fund Act, the Board shall, from the monies standing to the credit of the Member in the following CPF account of the Member, impose a charge in respect of the amount specified as follows:

Member's CPF account against which a charge is to be imposed	Amount to be charged
**Retirement Account ⁴⁷	\$[]

- VI. The Board shall only impose the charge after the premium refund has been credited into the Retirement Account of the Member and the Board being notified of such refund.

⁴⁵ To be used together with **Clauses 4(7) and (8)** above with necessary modifications.

⁴⁶ Please note that the amount of refund upon death is the positive difference, if any, between the premium paid and the total amount of monthly income paid to the Member. There will not be a refund at all if the member has chosen an annuity plan without refunds. Further, it is only in limited circumstances that a member may be allowed to surrender his annuity plan and obtain a refund of premium. Any refund will be credited to the member's retirement account. These are then considered as CPF monies. Please check with the Member if he is entitled to any refund. Monies in RA can be charged only in respect of Members with foreign Spouses as these Members need not first set aside their FRS in RA. Please delete these **Clauses V & VI** if no order is made in respect of premium refund.

⁴⁷ ** For the accounts that can be charged, please refer to **footnote 5**.

Annex C

Checklist For Consent Orders For Disposal or Transfer of Properties Funded With CPF Moneys

How To Use This Checklist:

1. You will have to sign this Checklist if:
 - a) You or the other party are going to apply for a **consent order** (“**Order**”) dealing with changes in ownership (e.g. sell, transfer etc.)¹ of a property (the “**Property**”) under section 112 or 121G of the Women’s Charter ; **and**
 - b) Central Provident Fund (“**CPF**”) moneys have been withdrawn from any CPF account(s) in respect of the Property. This includes using CPF moneys to purchase the Property, and/or pledging the Property to withdraw moneys from the CPF Retirement Account.
2. You do **not** need to sign this Checklist if the order is for the Property to be transferred (other than by way of sale) with **partial or no CPF** refunds.
3. The signed Checklist must be submitted to the courts at the same time as when you are submitting the draft consent order.

Important Notes:

- A. The Order should be promptly served on the Central Provident Fund Board² (the “**CPF Board**”) before the change in ownership of the Property.
- B. Changes in ownership of any HDB Flats will be subject to HDB rules and regulations.
- C. For more options on the division of CPF-related matrimonial assets, e.g. transferring a property (other than by way of sale) with partial or no refunds, please refer to the CPF Board’s Suggested Clauses in Order of Court available at the Family Justice Courts’ website.

¹ Including sale, surrender, assignment, transfer other than by way of sale, compulsory acquisition and other changes in ownership of the Property.

²Please refer to:

- (a) Regulation 7 of the CPF (Division of Fund-Related Assets in Matrimonial Proceedings) Regulations; and
- (b) Regulation 13 of the CPF (Lifelong Income Scheme) Regulations.

Parties/lawyers are required to serve the sealed copy of the order of court on the CPF Board in the manner stated in the Regulations.

Checklist

<p>1. I understand that the required CPF refunds must be made according to CPF laws dealing with refund of CPF moneys <u>at the time of completion of the transaction leading to the change in ownership of the Property.</u></p>	<input type="checkbox"/>
<p>2. I understand that the <u>transaction leading to the change in ownership</u> of the Property cannot be completed if the required CPF refunds have <u>not</u> been made. If the proceeds are not enough to make the refunds, any shortfall must be topped up in <u>one lump sum in cash</u> on the date of completion of the Property transaction.</p>	<input type="checkbox"/>
<p>3. I understand that the total amount to be refunded upon sale of the Property, or transfer of the Property other than by way of sale with full CPF refunds, will generally be:</p> <p>a) the total amount(s) of CPF moneys used to buy the Property together with accrued interest; and</p> <p>b) any amount(s) for which the Property is pledged (if applicable) in order to withdraw any Retirement Account savings³.</p> <p>Notes:</p> <p>i) <i>If the Property will be sold at market value and the sales proceeds after paying the outstanding housing loan (and HDB resale levy if applicable) are not enough to refund (a) plus (b), the shortfall need not be topped up in cash.</i></p> <p>ii) <i>The amount of required CPF refunds may differ depending on the transaction leading to change in ownership of the Property. For information on the required CPF refunds from sale of part share of the Property or other Property transactions not stated here (e.g. surrender, compulsory acquisition etc.), please refer to the CPF Board's website or contact the CPF Board.</i></p>	<input type="checkbox"/>
<p>4. I have checked⁴ and I know the following:</p> <p>a) the total amount(s) of CPF moneys used to buy the Property together with accrued interest;</p> <p>b) any amounts for which the Property is pledged (if applicable) in order to withdraw any Retirement Account savings; and</p> <p>c) that I have to share CPF information with the other party as required by the Family Justice Act, Family Court Practice Directions and the courts.</p>	<input type="checkbox"/>
<p>5. I know that until the date of <u>the transaction leading to the change in ownership</u> of the Property:</p>	<input type="checkbox"/>

³ The Property may have been pledged under the CPF Act in order to withdraw Retirement Account savings. Please check with the other co-owners and the CPF Board as to whether any CPF refunds need to be made in respect of the pledge.

⁴ Parties should frequently check their updated CPF Information in their CPF account(s) as all such information would be current at the date of viewing. Hence, the amounts may change over time.

- | | |
|---|--|
| <p>a) the amount of CPF moneys used for the Property may increase due to more CPF withdrawals being made;</p> <p>b) interest will continue to accrue until the date of <u>completion of the transaction leading to the change in ownership</u>; and</p> <p>c) there may be refunds from financiers if excess CPF moneys have been paid to them.</p> <p>As a result, the amount to be refunded may be different on the date of completion of the transaction leading to the change in ownership as compared to the amount calculated as at the date I signed this Checklist.</p> | |
|---|--|

IMPORTANT: Please note that every case depends on its facts and is subject to prevailing laws, including CPF rules and regulations as may be amended from time to time. If you are in doubt, please contact the CPF Board for clarifications on CPF-related matters.

I have read and I understand this Checklist.

Party's Signature

Name:

NRIC / Passport no.:

Date*:

HDB Toolkit

1 Introduction

- 1.1 After a marriage is dissolved and if the parties are unable to reach an agreement on the division of matrimonial assets, the Court usually makes orders on the division of the matrimonial assets pursuant to section 112 of the Women's Charter.
- 1.2 Many cases involve parties who own a Housing Development Board (HDB) flat. As HDB flats are subsidised public housing, they are subject to specific Rules and Regulations imposed by the HDB. These restrictions usually relate to the ownership (applicable eligibility criteria) and disposal (by sale or transfer) of the flat.
- 1.3 Due to this unique characteristic of public housing, there are special considerations you should be aware of when there is a divorce and a HDB flat to be divided.

2 What happens to your flat after the divorce?

- 2.1 Once parties are divorced, they would no longer satisfy the family nucleus (spousal relationship) requirement by HDB on which the purchase of the matrimonial flat was based. Accordingly, it is important to note that it is necessary to include a timeline for the flat to be dealt with after the divorce has been granted. The average time frame is usually about 6 months from the date of the order.
- 2.2 In some cases, the matrimonial flat is jointly owned by the spouses and a third party (usually the parent of one spouse). If this is the case and all parties cannot agree on the proportion of division and how to dispose of the flat, please note that an application will have to be filed in the High Court regarding the third party's share in the flat.

2.3 There are 3 possibilities:

- a) One party retains the flat under the applicable eligibility scheme (approved by HDB);
- b) The flat is sold in the open market if the minimum occupation period (MOP) of the flat is met or if HDB approves the sale before MOP;
- c) If the MOP is not met, the flat will be surrendered to HDB.

(1) Eligibility to retain flat:

2.4 There are various eligibility schemes should either party wish to retain the flat.

- a) You may form a family nucleus with the child(ren) under your care.
- b) If there are no children, you may form a family nucleus by including another eligible person (parents, other family members or a new spouse)
- c) You may retain the flat as a single adult above 35 years old.

2.5 If you qualify for any of the eligibility schemes listed above, you may consider retaining the flat by having the other party's share transferred or sold to you.

2.6 You should be aware that in the case of a sale of the other party's share, MOP requirements may apply (see below) and the flat will be treated as a resale flat. There will also be refinancing considerations in terms of HDB or private bank loans. You should consider all these financial issues in your discussions with the other party/submissions to the Court.

(2) Minimum Occupation Period (MOP)

2.7 A minimum occupation period (5 years from date of purchase) is imposed on all subsidised flats purchased directly from HDB or with a housing grant. This is to ensure that the flat is used for its intended purpose of housing; and to discourage HDB flats from being used in property speculation for financial gains i.e. flipping.

2.8 If you wish to sell the flat within the MOP period, you will need to obtain specific approval from HDB to do so. HDB will consider each request based on its merits.

(3) Types of orders.

2.9 In summary, there are the following options for parties in dealing with the matrimonial flat (by consent or by Order of Court):

- a) Surrender the flat to HDB;
- b) Transfer (other than by way of sale) one party's share in the flat to the other party, or to another eligible party;
- c) Part-share sale of one party's share in the flat to the other party, or to another eligible party;
- d) Sale of the flat in the open market (A valuer can determine the market value for division purposes).

Moving forward: Purchase of a subsequent flat

2.10 If you are unable to retain your matrimonial flat, you may choose to rent or purchase another flat for your housing needs.

2.11 You may wish to note the following:

- a) Pursuant to section 47(1) of the Housing and Development Act, a person is not allowed to own another HDB flat when he/she already has an existing legal title or beneficial interest in another HDB flat.
- b) Pursuant to section 51(10) of the Housing and Development Act, ineligible persons are not allowed to hold an interest in a HDB flat indirectly via a trust.

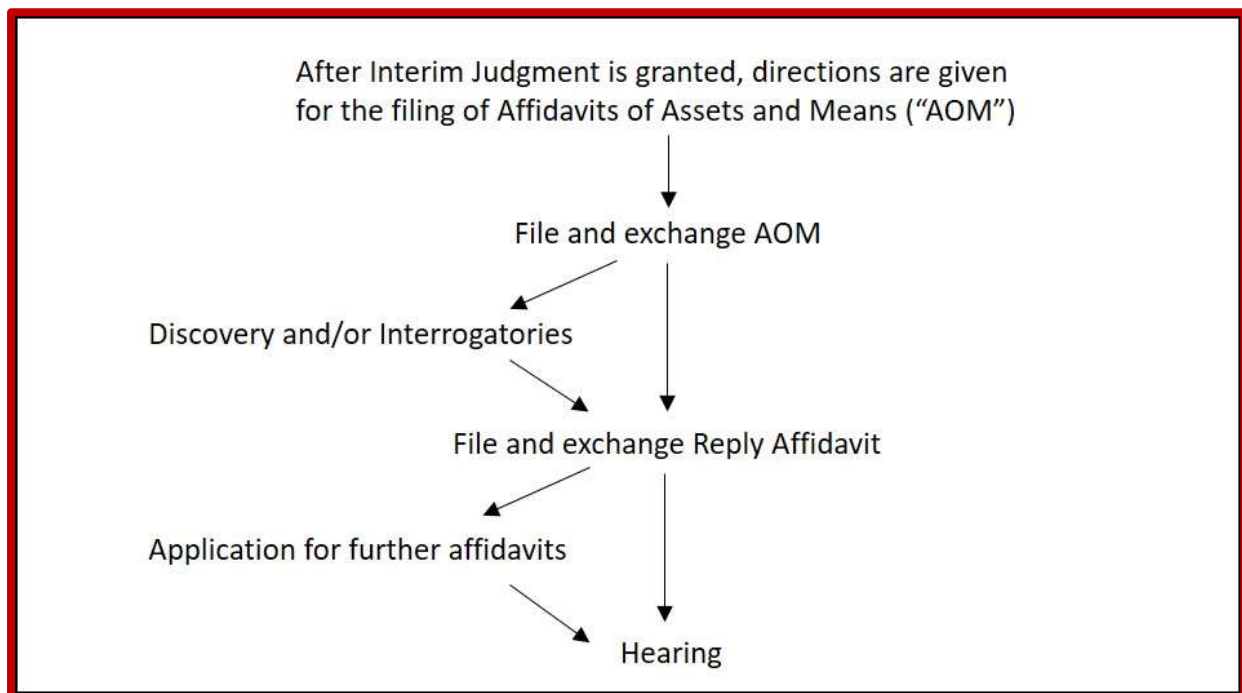
2.12 Given the numerous options, litigants may wish to approach any HDB branch office to make an appointment to discuss the housing options best suited to their situation. It would be prudent for counsel to advise clients to do so, in order to make an informed decision on this issue and to avoid having to file further applications to vary unworkable orders.

Ancillary Matters

1 Introduction

- 1.1 The Ancillary Matters refer to the following issues to be dealt with after the divorce is granted (Interim Judgment):-
- a) Custody of the children;
 - b) Care and control of the children;
 - c) Access for the parent who does not have care and control;
 - d) Division of matrimonial assets;
 - e) Maintenance for the wife; and
 - f) Maintenance for the children.
- 1.2 If parties were not able to reach an agreement on the Ancillary Matters prior to the grant of the Interim Judgment, the Ancillary Matters will be adjourned to chambers, to be dealt with at a later date. If parties are still unable to reach an agreement on the Ancillary Matters after the Interim Judgment is granted, they will have to file affidavits.
- 1.3 After all the affidavits have been filed, the Ancillary Matters will be heard by a District Judge who will then make orders. The Ancillary Matters are heard in chambers, which generally means that the hearing is based on the affidavit evidence and submissions and there is no cross-examination.

1.4 The general workflow is as follows:-



2 Preparation

- 2.1 In preparing the Affidavit of Assets and Means, you should consider the following issues: -
- a) If there are children to the marriage, whether you are seeking joint or sole custody. As joint custody is generally awarded save for exceptional circumstances, if you are seeking sole custody, you should have sufficient reasons to justify this.
 - b) Who should have care and control of the children? If the proposal is for shared care and control, then what are the specific care arrangements and how should the time be split between both parents?
 - c) How often should access be given? Should the access timings be specified or kept general, if the parties are able to communicate with each other and mutually arrange access?
 - d) What are the matrimonial assets? When were these acquired? What are the parties' respective financial contributions towards these assets?
 - e) If the assets were acquired before the marriage, has there been substantial improvement by one party or both parties during the marriage?
 - f) What is the proposal for the division of these matrimonial assets?
 - g) Are there any regulations from CPF/ HDB which parties need to be aware of so that they can decide whether they want the matrimonial property to be sold or to be retained by one party?
 - h) Is the party eligible to take up a bank loan if he/she does not have the funds to take over any asset/property from their ex-spouse?
 - i) Are there any assets/property which a third party may claim to have an interest in?
 - j) The indirect (financial and non-financial) contributions the party has made towards the family.

- k) Does the wife require any maintenance from the ex-husband? If yes, how much? What is her list of expenses and her income? What is her earning capacity? How much allowance (if any) did the ex-husband give the wife during the marriage?
 - l) For the maintenance of the children, how much is required as a contribution from the ex-spouse who does not have care and control? What are the children's list of expenses? What are the parties' respective income/earning capacity?
- 2.2 It is also good to start collating and preparing the relevant documents before drafting the Affidavit of Assets and Means. This is because if documents are to be retrieved from other agencies (for example banks), it will take time to obtain them.

3 Affidavit of Assets and Means (“AOM”) Preparation

- 3.1 Once the Interim Judgment is granted, for cases where there is no agreement on the Ancillary Matters, a Registrar’s Notice will be issued to parties, informing of the date for the filing and exchange of the AOM and the date of the next Case Conference for the matter.
- 3.2 The AOM of each party should set out all the relevant information relating to their income and expenses, assets (held jointly or in sole names) and their respective contributions towards the matrimonial assets, as well as the children’s care arrangements.
- 3.3 The template for the AOM is found in Form 206 Appendix A of the Family Justice Courts Practice Directions.
- 3.4 The parties are also required to exhibit various documents referred to or in support of the information in their respective AOMs¹⁶. In particular, the parties are to exhibit (where relevant) the following documents: -
- a) the party’s payslips for the last 6 months before the filing of the AOM;
 - b) evidence of employment, as well as evidence confirming his or her salary;
 - c) Notice of Assessment of Income for the past 3 years before the filing of the AOM;
 - d) a letter confirming that the Official Assignee has no objections to the matrimonial proceedings, the Statement of Affairs and the latest Income and Expenditure Statement filed with the Official Assignee (if the party is an undischarged bankrupt);

¹⁶ Paragraph 21 FJC PD

- e) updated Central Provident Fund (CPF) statements, showing the contributions made by the party towards the purchase of any immovable property and the balance in the party's CPF account (if any);
- f) updated CPF Investment Account statements (if any);
- g) Central Depository (Pte) Ltd statements (if any);
- h) updated search made with the Accounting and Corporate Regulatory Authority (ACRA) in respect of any businesses owned by the party;
- i) any valuation report or transaction search in respect of any immoveable property owned by the party;
- j) copy of any tenancy agreement, hire purchase agreement, insurance policy or any letter from any insurance company showing the surrender value of any insurance policy of the party;
- k) list of monthly expenses for himself or herself and/or the parties' child(ren);
- l) documents and receipts to prove the monthly expenses of the party and/or the parties' child(ren);
- m) updated bank passbooks and/or bank statements (including sole and joint accounts) showing the party's banking transactions and account balances for the last 3 months before the filing of the AOM; and
- n) any other documents referred to or supporting the information in the AOM.

3.5 After the AOM is prepared, the party must sign the AOM before a Commissioner for Oaths and it must be filed in the electronic filing system (e-Litigation).

3.6 A copy of the AOM must also be given to the other party, and in exchange, the other party will also give a copy of his/her AOM.

4 Case Conferences

- 4.1 At the first Case Conference after the Interim Judgment is granted, the parties should have filed and exchanged their respective AOMs as directed in the Registrar's Notice.
- 4.2 Case Conferences are convened to monitor the progress of the case and various directions may be given by the Court so that the case can proceed expeditiously for hearing.
- 4.3 Before the case is fixed for the final ancillary hearing before a District Judge, parties/counsel are expected to attend several Case Conferences.
- 4.4 It would assist the Court for the lawyers attending the Case Conferences to be well prepared and familiar with the case. During the Case Conferences, there will often be a discussion on the various disputed issues and specific directions will be given based on what is required so that the case can proceed for the Ancillary Matters hearing as expeditiously and as cost-effectively as possible.
- 4.5 The usual directions given at Case Conferences are as follows: -
 - a) Extension of time to file and exchange the AOMs (if the AOMs have not been filed pursuant to the directions given in the Registrar's Notice after the grant of the Interim Judgment);
 - b) If the parties have at least one child of the marriage under 21 years and they have not completed the FDR Programme (mandatory counselling and mediation), parties will be directed to attend the FDR Programme to see if they can reach an agreement at least on issues relating to the child;

- c) If the value of the pool of the matrimonial assets is more than S\$2million and there are no disputed children's issues, then parties will be directed to attend mediation at the Singapore Mediation Centre or private mediation before an appointed mediator;
 - d) If the value of the pool of the matrimonial assets is more than S\$5million, the Ancillary Matters hearing will be fixed before a Judicial Commissioner/Judge in the High Court (Family Division);
 - e) If the AOMs have been filed and exchanged, directions will be given for the filing and exchange of the Reply Affidavits;
 - f) If there are requests for discovery or interrogatories, directions will be given for the exchange of documents or answers;
 - g) Once the matter is ready for hearing, the Court will fix a hearing date before a District Judge.
- 4.6 Please bear in mind that the Court will usually not grant multiple extensions of time for the filing of affidavits without good reason. Pursuant to the objectives of the Family Justice Rules and the purpose of the "judge-led" powers, if there have been repeated breaches of directions to file affidavits, the Court may make an "unless" order. An "unless" order is an order for a party to file an affidavit/document by a certain date, and if the affidavit/document is not filed by that date, the party will not be allowed to file it.

5 Reply Affidavits and subsequent affidavits

- 5.1 After the AOMs have been filed and exchanged, parties may file and serve a reply affidavit to each other's AOM.
- 5.2 Thereafter, no further affidavits shall be filed without the approval of the Court¹⁷.
- 5.3 Approval is generally granted for a further affidavit to be filed, if new issues that are relevant to the determination of the Ancillary Matters have been raised in the reply affidavit, and have not been addressed by the other party in his AOM and/or reply affidavit.
- 5.4 An application for leave to file a further affidavit is made by way of summons supported by an affidavit demonstrating why a further affidavit is relevant and necessary to the resolution of the ancillary matters. The following requirements must be present in such an application¹⁸:-
- a) The summons must set out the title and date of the affidavit to which the applicant wishes to respond and the specific paragraphs of that affidavit to which the applicant wishes to respond.
 - b) The supporting affidavit must include a draft of the proposed further affidavit.
 - c) The supporting affidavit must include: -
 - (i) the new matters raised in specific paragraphs to which the applicant wishes to respond;
 - (ii) whether the applicant had an earlier opportunity to address the court on these new matters raised; and

¹⁷ Rule 81(2) and (3) FJR

¹⁸ Paragraphs 77(2)-(5) FJC PD

- (iii) the reasons why the applicant's response would be relevant and material for the just disposal of the case.

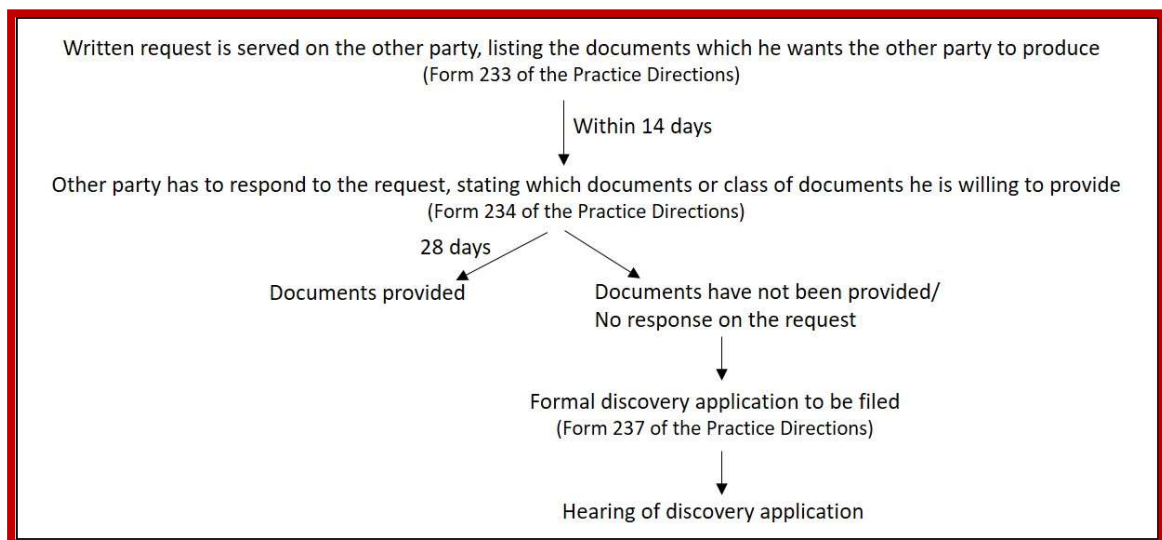
6 Full and frank disclosure

- 6.1 Parties must make full and frank disclosure of all their assets and means when filing their affidavits in Court.

- 6.2 The Court may draw an adverse inference against any party who fails to make full and frank disclosure. This usually means that if the Court finds at the Ancillary Matters hearing that one party has deliberately not disclosed relevant information or has hidden/dissipated matrimonial assets, the Court may award to the other party a larger share of the matrimonial assets or attribute a higher value to the asset pool.

7 Discovery

- 7.1 If there are insufficient documents provided by one party in the AOM, the other party can ask for discovery of documents.
- 7.2 The procedure for seeking discovery is as follows (you may also refer to the Chapter on Interim Applications, Discovery and Interrogatories in this Handbook): -

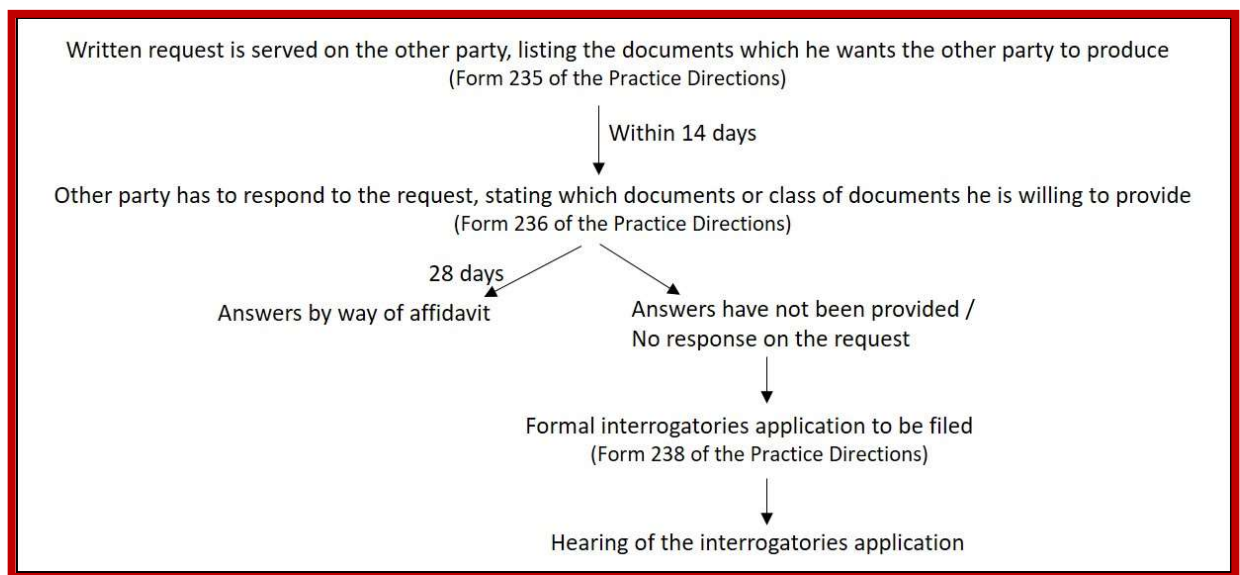


- 7.3 Sometimes at case conferences, the Court may give directions for the request for discovery and response to be sent by way of letter instead of using the prescribed forms. The documents to be provided can also be forwarded to the requesting party by way of letter. The Court may also give timelines which differ from the prescribed timelines in the Family Justice Rules, for effective case management.
- 7.4 In addition, at case conferences, the Court may also ask the parties for the documents they wish to seek and give an indication of whether such items requested would be relevant or necessary for the disposal of the ancillary matters.

- 7.5 Any request for disclosure of documents must be reasonable and relevant to the outstanding ancillary issues to be dealt with at hearing. For example: -
- a) Asking for bank statements dating back to the start of a 20-year marriage may not be reasonable unless there are specific reasons for requiring the bank statements.
 - b) Asking for documents from the ex-spouse to support his statement saying that he paid for the family's expenses. If the ex-spouse claims to have paid for the family expenses, he should produce the documents to support his own claim. If he has no documents, the other party at the hearing may make the necessary submissions at the hearing that he has no evidence to support his claim.
- 7.6 Where an order has been made by the Court for a party to produce documents, and that party fails to comply with the orders: -
- a) He or she shall be liable for committal in breaching the order of Court;
 - b) He or she may not be able to rely on/exhibit those documents subsequently except with leave of court;
 - c) The Court may draw an adverse inference against him or her.

8 Interrogatories

- 8.1 If there is insufficient information disclosed by one party in the AOM, the other party can request for the information via request for interrogatories.
- 8.2 The procedure for seeking interrogatories is as follows (you may also refer to the Chapter on Interim Applications, Discovery and Interrogatories in this Handbook): -



- 8.3 Sometimes at case conferences, the Court may give directions for the request for interrogatories and response to be sent by way of letter instead of using the prescribed forms. The Court may also give timelines which differ from the prescribed timelines in the Family Justice Rules, for effective case management.
- 8.4 At case conferences, the Court may also ask the parties for the interrogatories they wish to request and give an indication whether such interrogatories would be relevant or necessary for the disposal of the ancillary matters.
- 8.5 Any request for interrogatories must be reasonable and relevant to the outstanding ancillary issues to be dealt with at hearing. For example: -

- a) Asking for the reasons for an expense of \$10 charged to a credit card may be unreasonable and irrelevant because the amount is small, given the other important ancillary issues.
- 8.6 Where an order has been made by the Court for a party to provide answers to interrogatories, and that party fails to comply with the orders: -
- a) He or she shall be liable for committal in breaching the order of Court;
 - b) He or she may not be able to answer those questions subsequently except with leave of court;
 - c) The Court may draw an adverse inference against him or her.

9 Hearing of Ancillary Matters

- 9.1 When the case is ready for hearing, the parties or their counsel will be directed to file an Ancillary Matters Fact and Position Sheet¹⁹. This sets out each party's position in relation to the various issues.
- 9.2 The Court will then fix the case for hearing, and give directions for the parties to file and exchange written submissions, which are essentially a summary of each party's case and their arguments. Written submissions assist the judge in the hearing of the ancillary matters.
- 9.3 The ancillary matters hearing is held in chambers, without the parties' attendance. Submissions will be made by the parties based on the affidavits that have been filed.
- 9.4 Depending on the value of the pool of matrimonial assets and complexity of issues, the ancillary matters may be fixed for hearing in the High Court (Family Division). For matters heard in the High Court (Family Division), parties will have to prepare a joint summary, which sets out the various agreed and disputed items, instead of the Ancillary Matters Fact and Position Sheet.
- 9.5 If parties wish to cross-examine any witnesses during the hearing of the Ancillary Matters, an application will have to be filed, supported by an affidavit giving the reasons why cross examination is required.
- 9.6 After both parties have finished their submissions and any questions from the Court have been addressed, the Court will make an order for the Ancillary Matters.

¹⁹ Form 242

10 Orders that may be made at the hearing of the Ancillary Matters

10.1 The Court will generally make, where applicable, orders in relation to the children's arrangements, division of matrimonial assets, maintenance of the wife and children.

10.2 Examples of orders relating to the children's arrangements: -

Custody, Care and control

- a) A shall have sole custody, care and control of the children of the marriage;
- b) A and B shall have joint custody of the children of the marriage with care and control to A.

Access

- a) B shall have reasonable access to the children of the marriage;
- b) B shall have access to the children of the marriage as follows: -
[specific timings listed]
- c) B shall have liberal access to the children.
- d) B shall have supervised access to the children of the marriage at the Divorce Specialist Support Agency located at (address) for 8 sessions every week on Saturdays from [time] to [time]. The access arrangements shall be reviewed after the completion of the 8 sessions.

10.3 Examples of orders relating to the maintenance of the wife and/or children: -

- a) A shall pay the sum of \$x per month as monthly maintenance for the child of the marriage/B with effect from [date] and thereafter on the [number] day of each subsequent month. Payment shall be paid into B's bank account, XYZ Bank Account Number 123456.

- b) A shall pay a lump sum maintenance of \$x for the child of the marriage/ B, to be paid by [date].

10.4 Examples of orders for the sale or transfer of the matrimonial property and other matrimonial assets: -

- a) The matrimonial property known as [address] shall be sold in the open market within [time] and the nett proceeds of sale, after deducting the outstanding mortgage loan and the costs and expenses of the sale, shall be divided in the proportion of x% to A and y% to B. From each party's share of the nett proceeds of sale, each party shall reimburse to their respective Central Provident Fund account all monies utilised towards the purchase of the matrimonial property plus accrued interest. If there are insufficient cash proceeds from one party's share to refund his/her CPF monies with accrued interest, that party is to top up the shortfall in cash.
- b) (i) The matrimonial property known as [address] shall be sold in the open market within [time] and the nett proceeds of sale, after deducting the outstanding mortgage loan, refunding to both parties' respective Central Provident Fund accounts all monies utilised towards the purchase of the matrimonial property plus accrued interest, and the costs and expenses of the sale, shall be divided in the proportion x% to A and y% to B.
- (ii) A shall be entitled to [] of B's CPF monies pursuant to section 112 of the Women's Charter (Cap. 353) (the "Ordered Amount").
- (iii) After the making of the refund into B's CPF account(s) of the required CPF monies from the sale proceeds of the matrimonial property, the Central Provident Fund Board (the "Board") shall transfer from the monies standing to the credit of B in his CPF Ordinary Account, the Ordered Amount to A's CPF Ordinary Account.
- (iv) The Board shall only transfer the amount specified in this order after the Board has been notified of the sale of the matrimonial property and the refunds have been credited in B's CPF account(s).

- c) A shall transfer (other than by way of sale), his share, title and interest in the matrimonial property known as [address] to B within [time], upon B paying to A x% of the nett value. The nett value is to be determined by an open market valuation prepared by a jointly appointed valuer less the outstanding mortgage loan. From A's share of the nett value, A shall reimburse to his Central Provident Fund account all monies utilised towards the purchase of the matrimonial home plus accrued interest. B shall bear the costs and expenses of the transfer.
- d) A shall transfer (other than by way of sale), his share, title and interest in the matrimonial property known as [address] to B within [time], upon B paying to A \$x, being only part of the required Central Provident Fund refund. B shall bear the costs and expenses of the transfer.
- e) A shall transfer (other than by way of sale), his share, title and interest in the matrimonial property known as [address] to B within [time], with no consideration and no refund to A's Central Provident Fund account. B shall bear the costs and expenses of the transfer.
- f) Each party to retain assets in their respective sole names.
- g) A shall pay the sum of \$x to B being his share of the matrimonial assets by [].

10.5 The Central Provident Fund Board requires specific wordings for orders relating to the monies in parties' Central Provident Fund Account (see paragraph 10.4(b)(ii) above as an example) and the suggested clauses can be found on the CPF Board's website. Please refer to the earlier Chapter on the CPF Toolkit.

11 Bankruptcy proceedings

11.4 If a party is adjudged bankrupt before the hearing of the Ancillary Matters and both parties agree on the remaining Ancillary Matters, the bankrupt party must seek the views of the Official Assignee on the terms of the Draft Consent Order. If both parties cannot agree on the Ancillary Matters, the non-bankrupt spouse who is seeking a share of the assets of the bankrupt spouse (or joint assets which are co-owned by the bankrupt spouse) would have to defer the resolution of the Ancillary Matters until the bankruptcy order is annulled. This is because once a party is adjudged a bankrupt, his/her assets vest in the Official Assignee²⁰, subject to certain exceptions provided in the Central Provident Fund Act and the Housing and Development Act.

²⁰ *AVM v. AWH* [2015] 4 SLR 1274

High Court Family Division – Pre-Trial Conferences

1 Introduction

- 1.1 Pre-trial Conferences (PTCs) are conducted for High Court Family Division (HCFD) matters which include (i) appeals from the Family Courts and Youth Courts; (ii) probate and letters of administration applications; and (iii) Part X ancillary matters involving assets with a gross value at or above S\$5 million. The PTCs are heard by Assistant Registrars (ARs) of the High Court Family Division.
- 1.2 The ARs also deal with applications of a procedural nature, discussed further in the next chapter.
- 1.3 The procedural matters for these PTCs are generally regulated by the Family Justice Rules (“FJR”) and the Family Justice Courts Practice Directions (‘the PD’).
- 1.4 At the PTC, the AR will also ensure that appeals against interlocutory applications flowing from the same case are dealt with by the same HCFD judge. This also means that where the Ancillary Matters for a case with assets worth S\$5 million or more is heard by a HCFD judge, any appeals against interlocutory applications in the same case would be dealt with by the same HCFD judge.

2 Dealing with appeals from the Family Courts

1 Introduction

- 1.1 Timelines for the filing and service of the Appellant's and Respondent's respective Case/Submissions, as well as filing and exchange of the Record of Appeal, are procedurally regulated by the FJR and the PD.
- 1.2 It is only after the filing of the Respondent's Case/Submissions or due date of the Respondent's Case/Submissions that a PTC will be convened before an Assistant Registrar of the High Court Family Division (HCFD).

2 Purpose

- 2.1 The PTC is conducted for the parties to update the Court on the status of the filing of the Record of Appeal and Submissions, whether there are other pending interlocutory applications, and whether any issue(s) are agreed. The AR will then give directions regarding the steps to be taken to dispose of, or to resolve, the case in an expeditious manner, including the fixing of suitable dates for the hearing of the appeal(s).

3 Attendance at the PTC

- 3.1 If parties are represented, their respective solicitors will attend the PTC on their behalf. The principal solicitor having conduct of the case should personally attend the PTC. Duty solicitors attending the PTC are expected to familiarise themselves with the basic facts of the case and the client's instructions. They are expected to be able to provide the following information:
 - i) the issues on appeal;
 - ii) whether there are any necessary interlocutory applications to be made;

- iii) the time required for the appeal hearing;
- iv) whether any High Court Family Division judge had previously dealt with applications/appeals relating to the same parties;
- v) whether there are related High Court proceedings; and
- vi) parties' available dates for hearing.

3.2 Stating that they are not the solicitor in charge of the case in response to questions posed by the Court will not suffice and the PTC may be stood down for instructions to be taken or for the principal solicitor having conduct of the case to attend.

3.3 If parties are acting in person, they will attend the PTC personally. A solicitor representing the other party should check if the party in person requires an interpreter and if necessary, request for an interpreter to be present. This will reduce the waiting time for the PTC as the matter will not be dealt with until the interpreter arrives.

3.4 If both parties are acting in person and require an interpreter, they can approach the Registry staff to request for an interpreter before the commencement of the PTC.

4 Conduct of PTC

- 4.1 **Location.** PTCs are usually conducted in the Family Justice Courts building at 3 Havelock Square.
- 4.2 **Queue system.** CQMS is the Central Queue Management System that allows the AR to manage the list from within the hearing chamber. Only cases which are ready to be mentioned (i.e. all parties have taken a queue number or remaining parties are marked absent) will be called by the AR. If the other party is absent for more than 30 minutes and you wish to proceed with the PTC, the party/counsel present can take the queue number for the absent party or indicate the absence of that party in CQMS.
- 4.3 **Queue sequence.** Cases will be called according to the sequence in which all parties indicated they were ready and their scheduled timeslot. This means that Case B, which is scheduled at 9:30am but was ready at 9:00am, will be called *after* Case A, which is scheduled at 9am and ready at 9:05am.

5 Common issues at PTC

The following paragraphs deal with the issues most commonly raised at PTC.

- 5.1 **Record of Appeal and Appellant's Case.** The Appellant requires an extension of time for the filing of the Record of Appeal and/or Appellant's Case. It should be noted that for appeals filed as District Court Appeals (DCA) under Part 18 Division 59 of the FJR, the appeal is deemed withdrawn if the Record of Appeal and Appellant's Case are not filed in accordance with the timelines set out in the FJR. If the Appellant is already out of time, he/she will have to file an Originating Summons in the HCFD for an extension of time. If the timelines have not expired yet but the Appellant still requires an extension of time, a Summons application should be filed in the HCFD instead.

- 5.2 **Respondent's Case/Submissions.** The Respondent requires an extension of time for the filing of the Respondent's Case/Submissions. The Respondent should file a Summons application for an extension of time in the HCFD.
- 5.3 **Only Appellant's Case/Submissions filed.** Where only the Appellant has filed the Case/Submissions and timelines have lapsed for the Respondent's Case/Submissions to be filed, the AR will fix the matter for hearing if (i) the Appellant wishes to proceed and; (ii) there is no application filed by the Respondent for extension of time.
- 5.4 **Submitting further evidence.** Leave of Court is required if any party wants to submit new/further evidence on appeal. A Summons for leave to adduce further evidence should be filed and served quickly, and the affidavit in support should state, among other matters, why such further evidence could not have been obtained with reasonable diligence for use at the hearing at first instance. If there is unexplained delay in filing such an application, the applicant may be ordered to pay costs to the other party.
- 5.5 **Mediation.** Parties may indicate that they are attempting to resolve the appeal. An adjournment may be granted for this purpose but if further adjournments are being sought, parties should be prepared to explain to the AR, the progress of mediation talks, the actual proposals that have been discussed, the difference between parties' proposals and the likelihood of settlement.
- 5.6 **Settlement reached.** If a settlement is reached for the appeal, where appropriate, parties should prepare a draft consent order ("DCO") or seek leave to withdraw the appeal. Parties should take note of paragraph 116(5)(c) of the FJC PD on the requirement of an endorsement when a DCO is signed by a party who is acting in person.

- 5.7 **Fixing of hearing dates.** Once parties confirm that the appeal is proceeding, the AR will give directions for the submission of hard copy documents to the Correspondence Clearance counter at the Supreme Court. Parties should be prepared to describe the appeal issues accurately if asked, in order for sufficient time to be allocated for the hearing. Parties and counsel should also inform the AR of their available dates for hearing.

6 Conduct of Appeal Hearing

- 6.1 **Location.** HCFD hearings are usually conducted at the Supreme Court building.
- 6.2 **Documents to bring.** Counsel/parties should bring their own copies of the Record of Appeal, Appellant's Case/Submissions, Respondent's Case/Submissions, Joint summary (if relevant), Bundles of Authority, Core Bundle (if available) for reference during the hearing.
- 6.3 **Addressing the Court.** For RAS appeals (i.e. filed under Part 18 Division 60 of the FJR), counsel do not need to wear their court robes and counsel/parties can remain seated when they address the Court. For DCA appeals (i.e. filed under Part 18 Division 59 of the FJR), counsel should wear their court robes and counsel/parties are to stand when addressing the Court.
- 6.4 **Part-Heard Matters.** If a matter is part-heard, the HCFD Registry will send out the Registrar's Notice to parties giving the further hearing dates.
- 6.5 **Further submissions.** The HCFD Judge may direct the filing of further submissions from both parties on specific issues. Once the further submissions are filed, the Judge

will reserve his/her decision to be given at a later date if nothing further is required from the parties.

- 6.6 **Delivery of Judgment.** After the completion of submissions by parties/counsel, the HCFD Judge may give his/her decision on the day of hearing itself or direct that judgment be reserved. If judgment is reserved, a Registrar's Notice will be sent to parties to attend before the Judge for the delivery of judgment. In certain cases, the HCFD Judge may inform parties that the Judgment will be given via Registrar's Notice and parties need not physically attend before the Judge.

3 Dealing with procedural applications

1 Introduction

- 1.1 Procedural applications are heard by the Assistant Registrar and fixed for hearing after the PTC. Depending on the precise nature of the application in question, such matters are generally regulated—as regards procedure—by the FJR and the PD.

2 Purpose

- 2.1 PTCs may be conducted for the court to ascertain the status of the proceedings, and to give directions regarding the steps to be taken to dispose of, or to resolve, the case in an expeditious manner. If the application is proceeding, the AR may give directions for reply affidavits and written submissions to be filed. If appropriate, the AR may hear the interlocutory application first so that the main matter can then be fixed for hearing before the HCFD Judge.

3 Attendance at the hearing

- 3.1 If parties are represented, their respective solicitors will attend the hearing on their behalf. The principal solicitor having conduct of the case is to personally attend the hearing. If parties are acting in person, they will attend the hearing personally. Check if the litigant in person requires the assistance of any language interpreter. If required, the solicitor representing the other party should arrange for an interpreter to be present. If the interpreter has not yet arrived, the hearing will be stood down till the interpreter is ready to assist the litigant in person.

4 Conduct of hearing

- 4.1 Hearings before the HCFD AR will be conducted at the Family Justice Courts building. CQMS is the Central Queue Management System that allows the AR to manage the list from within the hearing chamber. Only parties who have indicated their readiness for hearing will appear on the AR's screen.

5 Common issues

- 5.1 **Procedural application.** These applications are procedural in nature such as regarding service of the application, timelines, extensions of time etc.
- 5.2 **Adjournment.** Parties may seek an adjournment for the purposes of taking instructions and/or attempting private negotiations. For further adjournments (ie. more than one adjournment), parties should be prepared to provide detailed reasons as to why multiple adjournments should be granted.
- 5.3 **Directions for affidavits.** In certain cases, the applications fixed for hearing may be recently served on the opposing counsel/litigant in person. Parties should apply for directions for the filing of reply affidavits, if necessary. It may not be necessary for the party who filed the application to file a further affidavit in reply. If the applicant seeks leave to file a reply affidavit, he/she should satisfy the AR of the need for this further affidavit. The AR may exercise his/her discretion and grant leave for the affidavit to be filed, with such other orders as he/she may deem fit and/or necessary. The applicant seeking leave to file a further affidavit should at least be able to specify the paragraphs which he/she wishes to reply to and the reasons for this. The AR may then direct that the reply affidavit be limited to responding only to those paragraphs and make provision for a final affidavit by the other party, which is similarly restricted. The AR

may also direct that no further affidavits be filed without leave of Court. The AR may also, in his/her discretion, direct that the party seeking to file a further affidavit file a Summons application to obtain leave to file such affidavit.

- 5.4 **Agreement is reached.** If the parties have reached an agreement on all issues, counsel may file a draft consent order (“DCO”) and either request for an order in terms to be granted without having to attend at the hearing, or for an order in terms to be granted at the hearing.
- (i) Where the draft consent order is not filed before the hearing, the counsel/parties may tender two hard copies of the draft consent order at the hearing. If one counsel is mentioning for the other party, please ensure that the draft consent order is signed by the other party’s counsel, or, if the other party is in person, that it is signed by that party before a commissioner for oaths or an advocate and solicitor. Counsel is to ensure that paragraph 116(5) of the FJC PD is complied with.

Dealing with Ancillary Matters at PTC for HCFD

1 Introduction

- 1.1 The HCFD deals with cases where the contested Ancillary Matters involve assets valued at or above S\$5 million (gross value of the pool of matrimonial assets). Such cases are generally transferred to the HCFD for hearing after all affidavits have been filed and interlocutory applications have been dealt with. In addition, if either party or both parties assert that (a) there is a novel point of law and/or (b) a superior court order is required for the purposes of enforcement in an overseas jurisdiction, a formal application must be filed to transfer the case to the HCFD. Such an application will be heard by a District Judge in the Family Justice Courts.
- 1.2 Pre-trial conferences are conducted by a District Judge (“DJ”) of the Family Courts, before the case is transferred to the HCFD for hearing of the ancillary matters. All interlocutory applications are also dealt with by the DJ.
- 1.3 Upon confirmation that there are no further affidavits to be filed and no outstanding interlocutory applications and the case is ready to proceed for hearing of the ancillary matters, the case will be transferred to the HCFD and a hearing date will be fixed before a HCFD Judge.
- 1.4 Such matters are generally regulated—as regards procedure—by the FJR and PD.

2 Conduct of PTC

- 2.1 **Location.** HCFD PTCs are usually conducted in the Family Justice Courts building at 3 Havelock Square.
- 2.2 **Queue system.** CQMS is the Central Queue Management System that allows the AR to manage the list from within the hearing chamber. Only cases which are ready to be mentioned (i.e. all parties have taken a queue number or remaining parties are marked absent) will be called by the DJ. If the other party is absent for more than 30 minutes and you wish to proceed with the PTC, the party/counsel present can take the queue number for the absent party or indicate the absence of that party in CQMS.
- 2.3 **Queue sequence.** Cases will be called according to the sequence in which all parties indicated they were ready and their scheduled timeslot. This means that Case B, which is scheduled at 9:30am but was ready at 9:00am, will be called *after* Case A, which is scheduled at 9am and ready at 9:05am. Only parties who have indicated their readiness for hearing will appear on the DJ's screen.

3 Common issues

The paragraphs that follow deal with the issues most commonly raised at the PTC.

- 3.1 **Contested divorce.** When taking directions for the filing of Affidavits of Evidence-in-Chief (“AEIC”), counsel/parties should be able to assist the DJ by providing the relevant information such as the number of witnesses, the need for translation of documents, whether there are overseas witnesses etc. When hearing dates are being fixed for the contested divorce trial, counsel/parties should inform the DJ if interpreters are required for the parties and estimate the time required for hearing.
- 3.2 **Contested ancillary matters.** Counsel/parties must identify the contested ancillary issues.
- 3.3 **Children issues.** If custody, care and control is disputed, counsel/parties should inform the DJ of the age/s of the child/children. It is also useful to specify if the point of contention is really one of custody, care and control or access. Where there are children below 21 years of age, the Court will direct the parties to go for mandatory court counselling and mediation to try to resolve the custody and access issues. In general, the decision to order any Social Welfare Report/Custody Evaluation Report/Access Evaluation Report or appointment of Child Representative (“CR”), if necessary, will be left to the HCFD judge hearing the Ancillary Matters.
- 3.4 **Matrimonial assets—immovable properties, companies and businesses.** After the filing of the Affidavit of Assets and Means, counsel/parties should have an estimate of the gross value of matrimonial assets. If there is a dispute on the value of any asset, counsel/parties should explore the possibility of jointly appointing a valuer if necessary.

- 3.4.1 *Central Provident Fund ('CPF') order.* If the other party is absent or unrepresented and is not able to obtain his CPF statements (e.g. if he is presently serving a prison term) but the absent or unrepresented party has used CPF monies to contribute towards the matrimonial property, or if there is a claim for division of the CPF monies of that absent or unrepresented party, the DJ may make an order for the CPF Board to disclose information regarding the absent or unrepresented party's CPF monies.
- 3.5 **Matrimonial assets—third party issues.** Counsel/parties should inform the DJ if there are any matrimonial assets which are in the name of a third party, or in which a third party may have a claim. If there is no agreement between the parties and the third party as to the third party's interest in the asset and the value of the other matrimonial assets is insufficient to offset any claim one party may have in the third party asset, the DJ may direct that a separate civil suit to determine the third party's interest in the asset be filed in the High Court. It is important to alert the Court early so that directions can be given, especially since the Ancillary Matters proceedings may be stayed pending a High Court Suit involving the third party's interest.
- 3.6 **Discovery and interrogatories.** Parties are expected to send requests for discovery and interrogatories in a timely manner. This means making requests for discovery and interrogatories as soon as a party is able to reasonably ascertain that relevant documents/information are required from the other party. For example, this means that if an Affidavit of Assets and Means is filed exhibiting bank statements showing monthly transfers of large sums and the reason for the transfers is not known, the relevant request for discovery and interrogatories should be served promptly after the Affidavit of Assets and Means is served. If a party is making requests for discovery and interrogatories at a belated stage, that party should expect cost orders to be made against him/her and the Court may even refuse to allow further discovery requests or applications to be made, unless there is a very good reason for the delay.

- 3.7 Filing more than two Ancillary Affidavits.** Parties are generally allowed to file two affidavits each for the Ancillary Matters. If parties wish to file further affidavits, they are required to seek leave of Court. In making such applications for further affidavits, parties should identify the paragraphs of the other party's second affidavit which they wish to reply to and prepare their proposed draft response affidavit.
- 3.8 Mediation.** In cases where the children are below 21 years of age, the parties have to go through mandatory court counselling and mediation as set out in point 5.3 above. For cases where parties do not have children or where the children are adults, the parties would be directed to attend private mediation or mediation at the Singapore Mediation Centre (SMC). If counsel/parties wish to mediate, counsel/parties are to explore the type of private mediation options available and inform the DJ of the name of the proposed mediator or whether they will attend SMC mediation and the estimated date of mediation.
- 3.9 Ancillary matters settled.** If all the ancillary matters have been agreed between the parties, a DCO should be filed (Please refer to para 116 of the FJC PD for the requirements of a DCO). Counsel/parties can then file a request seeking an order in terms of the DCO without being required to attend Court. Alternatively, counsel/parties can attend before the DJ at the next scheduled PTC to ask for an order in terms of the DCO.
- 3.10 Fixing Ancillary Matters Hearing.** Each party must file the Joint Summary of Relevant Information (Form 243 of the PD) ("Joint Summary") and Checklist for Ancillary Matters ("Checklist") before an ancillary matters hearing is fixed. If parties have finished the filing and exchange of affidavits, and wish to take a hearing date, the DJ will direct that the parties file and exchange the above documents within 2 weeks from the date of the PTC and to file and exchange the written submissions at least 2 weeks before the hearing date. There may be a final PTC prior to the hearing to ensure that directions have been complied with.

The DJ will direct parties to prepare hard copies of the Bundle of Affidavits, Written Submissions and Bundle of Authorities to be tendered to the Correspondence Clearance Counter in the Supreme Court at least 1 week before the hearing date in the HCFD.

- 3.11 **Assessment of time required for hearing.** Counsel/parties should inform the DJ of the required time for the hearing. If the required hearing time exceeds half a day, counsel/parties should be prepared to explain why the case would require more than half a day. If any related case with the same parties had previously been heard by a High Court judge, counsel/parties should also highlight this to the DJ when the hearing date is being fixed.

4 Hearing of the Ancillary Matters

- 4.1 **Location.** Hearings are usually conducted at the Supreme Court building.
- 4.2 **Documents to bring.** Counsel/parties should bring their own copies of the affidavits, submissions, Joint summary, Bundles of Authorities, Core Bundle (if available) for reference during the hearing.
- 4.3 **Addressing the Court.** As the hearing is conducted in chambers, counsel do not need to wear their court robe and counsel/parties can remain seated when they address the Court.
- 4.4 **Part-Heard Matters.** If a matter is part-heard, the HCFD Registry will send out a Registrar's Notice with the further hearing dates.
- 4.5 **Further submissions.** The HCFD Judge may direct further submissions to be filed by both parties on specific issues. Once the further submissions are filed, the HCFD Judge will reserve his/her decision to be given at a later date if nothing further is required from the parties.
- 4.6 **Delivery of Judgment.** After the completion of submissions by parties/counsel, the HCFD Judge may give his/her decision on the day of hearing itself or direct that judgment be reserved. If judgment is reserved, a Registrar's Notice will be sent to parties to attend before the Judge for the delivery of judgment. In certain cases, the HCFD Judge may inform parties that the Judgment will be given via a Registrar's Notice and parties need not physically attend before the Judge.