RULES OF COURT 2021: SCOPE AND APPLICATION, AND THE ENDORSEMENT, SERVICE, VALIDITY, AND EXTENSION OF THE ORIGINATING CLAIM

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Introduction

The Rules of Court 2021 ("**New Rules of Court**") replace the Rules of Court 2014 ("**Revoked Rules of Court**") with effect from 1 April 2022. This article provides a general comparative overview of the provisions relating to originating claims, which replaces the writ of summons under the Revoked Rules of Court.

Scope and application

The First Schedule of the New Rules of Court preserve the applicability of the Revoked Rules of Court to limited matters. Among other things, paragraph 1(a) of the First Schedule provides that the Revoked Rules of Court continue to apply to "and in relation to" any proceedings commenced by writ or originating summons in the General Division of the Supreme Court (including the Singapore International Commercial Court), the District Court, or the Magistrate's Court before 1 April 2022.

It would appear that proceedings to enforce judgments rendered in actions commenced by writ or originating summonses are proceedings which are "in relation to" "any proceedings commenced by writ or originating summons" before 1 April 2022. Such enforcement proceedings are not commenced by an originating process independent of the originating process under which the judgment requiring enforcement was rendered.

New practice directions

A new set of practice directions accompany the New Rules of Court. The new Supreme Court Practice Directions can be found here. The new State Courts Practice direction can be found here.
The Supreme Court Practice Directions which relate to the Revoked Rules of Court can be found here. The

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State Court Practice Directions which relate to the Revoked Rules of Court can be found here.

Originating claims replace the writ of summons

Equivalent under the Revoked Rules of Court – no prohibition against general endorsement

Originating claims replace the writ of summons under the Revoked Rules of Court.

Under Order 6 rule 2(1)(a) of the Revoked Rules of Court, writs could be generally endorsed or endorsed with a statement of claim. There was no requirement that writs be endorsed with a statement of claim.

Requirement that originating claims be endorsed with a statement of claim except in the special case under the New Rules of Court

Under Order 6 rule 5(4) of the New Rules of Court, originating claims must be endorsed with a statement of claim unless:

- the circumstances in which the originating claim has only been endorsed generally constitutes a "special case"; or
- the limitation period for the claimant's cause of action will expire within 14 days after the originating claim is issued. In other words, that the originating claim is effectively a protective writ justifies the lack of a statement of claim.

Under Order 6 Rule 5(5) of the New Rules of Court, if the originating claim has been served with a general endorsement, the statement of claim must be served within 14 days after such service.

Commentary

What constitutes a "special case" has yet to be tested. However, an instance in which it would appear to be permissible to file only generally-endorsed originating claims is where urgent applications for asset freezing or preservation orders are being sought.

Service of originating processes then and now

Service and validity of originating process under the Revoked Rules of Court

The Revoked Rules of Court did not expressly impose a period within which service of originating processes were to be attempted and/or effected.

Under Order 6 rule 4 of the Revoked Rules of Court, writs of summons were valid in the first instance for 6 months from date of issue, where served within Singapore. Where leave to serve the writ outside of Singapore was required, the writ was valid in the first instance for 12 months instead. Additionally, under Order 6 rule 4(2) and (2A) of the Revoked Rules of Court, the validity of a writ could be extended by application. Extensions were generally granted for a period of 6 or 12 months under Order 6 rule 4(2) and Order 6 rule 4(2A) respectively. There was no express provision limiting the number of times the Court could extend the validity of the writ.

Service of originating process under the New Rules of Court

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Order 6 rule 11(4) of the New Rules of Court now imposes an obligation to take reasonable steps to serve the originating claim on the defendant within 14 days after the issuance of the originating claim if service is limited to service within Singapore. Under Order 6 rule 11(7), namely, where service is outside Singapore, the timeline is 28 days instead.
As for validity, Order 6 rule 3 of the New Rules of Court has halved the duration of the validity of the originating claim at first instance to 3 months. It is also possible to apply to extend the validity of the originating claim under Order 6 rule 3(2) of the New Rules of Court. Extensions, where granted, are likewise shorter – 3 months under Order 6 rule 3(4). There is also now an express limit to the number of times that the Court may extend the originating claim – twice, except in a special case – also under Order 6 rule 3(4).

Commentary
Although there was no express requirement under the Revoked Rules of Court to take reasonable steps to serve the writ within a particular period of time, it was common and good practice to do so. Failure to do so could have negative consequences on applications to renew the validity of the writ if there was no good reason for the delay.
The New Rules of Court now impose an obligation on the claimant to take reasonable steps to serve the originating claim within a short amount of time. This, together with the shorter timelines and the Court's power under Order 2 rule 6 of the New Rules of Court to dismiss the claim if the claimant has not taken reasonable steps to effect service expeditiously, is likely to ensure that disputed claims progress and are ultimately ventilated at trial more expeditiously.

It remains to be seen whether a defendant's request to the claimant to withhold service of the originating claim may negative a claimant's express obligation to take reasonable steps to serve the originating claim within the timeline prescribed under the New Rules of Court. Such circumstances previously constituted a "good reason" justifying the renewal of a validity of a writ under the Revoked Rules of Court.

Notice of intention to contest or not contest claim replaces the memorandum of appearance

Equivalent under the Revoked Rules of Court
Order 12 rule 1 of the Revoked Rules of Court required defendants to file and serve a memorandum of appearance within a number of days after service of the writ, regardless of whether the writ was endorsed with a statement of claim, if the defendant intended to defend against the claim.
Under Order 12 rule 4, where the writ was served within Singapore, the defendant had 8 days after service to enter an appearance. Where the writ was served outside of Singapore, the timeline was 21 days instead.

Position under the New Rules of Court
Order 2 rule 4 of the New Rules of Court requires a defendant to file and serve a notice of intention to contest or not contest a claim in response to an originating application that was served with a statement of claim.
Order 6 rule 6 now provides defendants served in Singapore with a longer period of time – 14 days after

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service of the statement of claim (instead of service of only the originating claim) – to file and serve a notice of intention to contest or not contest. Defendants served outside of Singapore have 21 days.

Commentary

Practically speaking, in the event a defendant does not intend to contest a claim, that defendant may nevertheless choose not to file a notice of intention to not contest a claim. If there is no incentive for a defendant to file a notice of intention even if the defendant truly does not wish to contest the claim, defendants would appear to be in a better position if they opt not to file the notice of intention. Such an omission may better preserve a defendant's ability to apply to set aside default judgment. A defendant who has filed a notice of intention confirming the defendant's intention not to contest the claim may not be able to credibly resile from that position and apply to set aside a default judgment.

A summary of the main changes in the Rules of Court is included in the table below.

-	**Revoked Rules of Court**	**New Rules of Court**
Scope and application	All civil proceedings, including appeals, commenced before 1 April 2022	All civil proceedings, including appeals, commenced on or after 1 April 2022, except where saved by the First Schedule
Terminology	Writ of summons	Originating claim
	Plaintiff	Claimant
	Memorandum of appearance	Notice of intention to contest or not contest
Particularity	General endorsement generally acceptable	Originating claim is to be accompanied by a statement of claim except in a special case or where limitation period is to expire within 14 days after issuance of originating claim. If generally endorsed, statement of claim must follow 14 days thereafter.
First instance validity where served within Singapore	6 months	3 months

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First instance validity where served outside Singapore	12 months	3 months
Extension of validity	6 or 12 months per extension	3 months per extension
Limitation to number of extensions	None	2, except in a special case
Timeline for service of originating claim in Singapore	Within period of validity of writ	Reasonable steps must be taken to effect service within 14 days of issuance of originating claim
Timeline for service of originating claim outside Singapore	Within period of validity of writ	Reasonable steps must be taken to effect service within 28 days of issuance of originating claim
Deadline for defendant's first filing if served within Singapore	Memorandum of appearance due 8 days from service of writ	Notice of Intention to Contest or Not Contest due 14 days from service of statement of claim
Deadline for defendant's first filing if served outside Singapore	Memorandum of appearance due 21 days from service of writ	Notice of Intention to Contest or Not Contest due 21 days from service of statement of claim
Practice directions	Supreme Court – here State Courts – here	Supreme Court – here State Courts – here

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