

## **SICC PROCEDURAL GUIDE<sup>1</sup>**

*A pocket guide to the procedures of the Singapore International Commercial Court as set out in the applicable legislation, Rules of Court and practice directions.*

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<sup>1</sup> This procedural guide is applicable for proceedings which are governed by the Rules of Court (Cap 322, R 5) (as in force before 1 April 2022).

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### **Disclaimer**

*The contents of this document are for reference purposes only. They are not in any way a substitute for direct reference to the relevant legislation and practice directions. Specific legal advice should always be sought separately.*

## **List of abbreviations**

Counsel	: A person falling within the definition of “counsel” in O 110 r 1(1) of the Rules of Court (Cap 322, R 5), including a registered foreign lawyer who is granted full registration under section 36P of the Legal Profession Act (Cap 161). Where the Rules of Court (Cap 322, R 5) (excluding certain provisions mentioned in O 110 r 1(5) of the Rules of Court (Cap 322, R 5)) refer to an advocate and solicitor, an advocate, or a solicitor acting for a person in any proceedings, that reference shall in relation to proceedings in the SICC be construed as a reference to counsel acting for the person: see O 110 r 1(4) of the Rules of Court (Cap 322, R 5).
General Division	: The General Division of the High Court of Singapore
O	: Order in the Rules of Court (Cap 322, R 5)
PD	: Singapore International Commercial Court Practice Directions
Registered Foreign Lawyer	: A foreign lawyer registered under Section 36P of the Legal Profession Act (Cap 161)
Registered Law Expert	: A law expert registered under Section 36PA of the Legal Profession Act (Cap 161)
r / rr	: Rule or rules in the Rules of Court (Cap 322, R 5) or other subsidiary legislation
ROC	: Rules of Court (Cap 322, R 5)
SICC	: Singapore International Commercial Court
s / ss	: Section or sections in primary legislation
Third-Party Funder	: A person who carries on the business of funding all or part of the costs of dispute resolution proceedings to which the person is not a party
Third-party funding contract	: A contract or agreement entered into on or after 28 June 2021 by a party or potential party to dispute resolution proceedings with a Third-Party Funder for the funding of all or part of the costs of the proceedings, in return for a share or other interest in the proceeds or potential proceeds of the proceedings to which the party or potential party may become entitled

## **1. Sources of Singapore International Commercial Court procedural rules**

### 1.1. Supreme Court of Judicature Act (Cap 322)

1.1.1 The Supreme Court of Judicature Act (Cap 322) is the primary legislation setting out the constitution and powers of the Singapore International Commercial Court (“SICC”). The SICC is a division of the General Division of the High Court of Singapore (“General Division”). It is thus a part of the Supreme Court, which is the superior court in Singapore.

1.1.2 The Supreme Court of Judicature Act (Cap 322) provisions relating to the SICC are found in ss 18A–18M. The SICC procedural rules which are contained in the Rules of Court (“ROC”) are made pursuant to the Supreme Court of Judicature Act (Cap 322) s 80(1), (2) and (2A).

### 1.2. Rules of Court

1.2.1 The ROC is subsidiary legislation. It regulates and prescribes the procedure and practice to be followed in the General Division of the High Court (which includes the SICC) and the Court of Appeal.

1.2.2 The ROC is broken down into Orders which in turn comprise a series of rules.

1.2.3 Order 110 of the ROC sets out specific provisions relating to proceedings in the SICC.

1.2.4 Proceedings in the SICC are governed by O 110, as well as the other provisions of the ROC as modified by O 110.

### 1.3. SICC Practice Directions

1.3.1 The SICC Practice Directions (“PD”) supplements the ROC by setting out procedural guidelines regulating all proceedings in the SICC. The contents of the PD are organised into Parts and paragraphs.

1.3.2 The PD reflects international best practices for commercial dispute resolution, and may be amended from time to time to cater to the needs of the SICC and its users. All users of the SICC are expected to comply with the PD.

1.3.3 The PD is issued by the Registrar pursuant to ROC O 110 r 54.

### 1.4. User Guides

1.4.1 A set of User Guides has been issued by the SICC to provide guidance on certain features of SICC proceedings. The contents of the User Guides are organised into Notes which cover topics such as:

jurisdiction, commencing an action, foreign representation, disapplication of Singapore evidence law and injunctions prohibiting disposal of assets.

1.4.2 The User Guides do not form part of the ROC or the PD and do not in any way modify anything in the ROC or the PD. They are purely for reference purposes and do not bind the SICC in any way.

## 1.5. Resources

1.5.1 The Supreme Court of Judicature Act (Cap 322), ROC, PD and User Guides are all available on the SICC website ([www.sicc.gov.sg](http://www.sicc.gov.sg)).

1.5.2 All primary and subsidiary legislation of Singapore is also available on Singapore Statutes Online (<https://sso.agc.gov.sg>).

## 2. **Jurisdiction of the SICC**

2.1 The SICC has the jurisdiction to hear and try any action (a) that is international and commercial in nature, (b) that is one that the General Division may hear and try in its original civil jurisdiction (i.e. at first instance), (c) where each plaintiff and defendant named in the originating process when it was first filed has submitted to the SICC's jurisdiction under a written jurisdiction agreement and (d) where the parties do not seek any relief in the form of, or connected with, a prerogative order (such as a mandatory order, a prohibiting order, a quashing order or an order for review of detention): see Supreme Court of Judicature Act (Cap 322) s 18D(1); ROC O 110 r 7(1); User Guides Note 1. For provisions relating to the original civil jurisdiction of the General Division, see Supreme Court of Judicature Act (Cap 322) ss 16–17.

2.2 The SICC also has jurisdiction to hear any proceedings relating to international commercial arbitration that the General Division may hear under the International Arbitration Act: see Supreme Court of Judicature Act (Cap 322) s 18D(2); ROC O 110 r 57(1). Matters which the SICC will have regard to for the purposes of determining whether proceedings are “proceedings relating to international commercial arbitration” are set out at ROC O 110 r 57(2).

2.3 The SICC also has the jurisdiction to hear cases transferred from the General Division to the SICC or an application seeking leave to commit a person for contempt in respect of any judgment or order made by the SICC: see ROC O 110 r 7(2).

2.4 For matters relating to the SICC's jurisdiction over persons sought to be joined as additional parties to SICC proceedings, see Section 7 below.

## 3. **Commencement of SICC proceedings**

3.1 There are 2 modes of commencement of SICC proceedings.

- 3.1.1 SICC proceedings may be commenced by writ of summons or originating summons: see ROC O 110 r 4; O 5 r 1. Writs of summons and originating summonses are often collectively referred to as originating processes. Each is considered below.
  - 3.1.2 All writs of summons and originating summonses have a validity period during which they must be served on a defendant. The validity period for a writ of summons or an originating summons is generally 12 months beginning with the date of its issue: see ROC O 110 r 5. The validity period may be extended upon application to the SICC: see ROC O 6 rr 4(2)–(2A).
  - 3.1.3 The commencement of certain types of proceedings may be governed by special provisions in the ROC, where applicable. For example, proceedings under the International Arbitration Act (Cap 143A) are specifically governed by ROC O 69A and admiralty proceedings are specifically governed by ROC O 70.
  - 3.1.4 For further guidelines on originating processes in SICC proceedings, see PD Part X.
- 3.2 Writ of summons
- 3.2.1 Proceedings in which a substantial dispute of fact is likely to arise must be commenced by writ of summons: see ROC O 5 r 2.
  - 3.2.2 A writ of summons must be in Form 249: see ROC O 110 r 4(2); PD para 65.
  - 3.2.3 A defendant to an action commenced by writ of summons must enter an appearance within 8 or 21 days after service of the writ on that defendant, depending on whether the writ was served within or outside Singapore: see ROC O 12 r 4; PD para 65. On how to enter an appearance and the consequences of failing to enter an appearance, see ROC O 12 rr 1–2, 5.
  - 3.2.4 For a typical life cycle of SICC proceedings commenced by writ of summons, see ANNEX A - **TYPICAL PROCEDURE OF AN SICC ACTION COMMENCED BY WRIT OF SUMMONS** to this document.
- 3.3 Originating summons
- 3.3.1 Proceedings in which the sole or principal question at issue is one of construction of any written law or document, or in which there is unlikely to be any substantial dispute of fact, should be begun by originating summons. This is unless the plaintiff intends to apply for summary judgment under ROC O 14 or for any other reason considers the proceedings more appropriate to be begun by writ of summons: see ROC O 5 r 4(2).

- 3.3.2 An originating summons must be in Form 250: see ROC O 110 r 4(3); PD para 66.
  - 3.3.3 No appearance needs to be entered by a defendant to an action commenced by originating summons: see ROC O 12 r 9; PD para 66.
  - 3.3.4 For a typical life cycle of SICC proceedings commenced by originating summons, see Annex B to this document.
- 3.4 Plaintiff's declaration
- 3.4.1 Originating processes (apart from those relating to proceedings under the International Arbitration Act (Cap 143A)) must be accompanied by a plaintiff's declaration signed by the plaintiff or the plaintiff's counsel. The declaration must exhibit a copy of the written jurisdiction agreement to which the plaintiff and defendant are party and explain why the action is of an international and commercial nature: see ROC O 110 rr 4(4)–(6) and 56(1)(b); User Guides Note 2.
- 3.5 "Offshore case" declaration
- 3.5.1 An "offshore case" is an action that has no substantial connection with Singapore, but does not include: (a) any proceedings under the International Arbitration Act (Cap 143A) that are commenced by way of any originating process; and (b) an action in rem (against a ship or any other property) under the High Court (Admiralty Jurisdiction) Act (Cap 123): see ROC O 110 r 1(1). For more information on what constitutes no substantial connection with Singapore, see O 110 r 1(2)(f); PD Part V.
  - 3.5.2 Where the plaintiff takes the position that the action is an offshore case, the plaintiff may file an offshore case declaration together with the originating process: see ROC O 110 r 35.
  - 3.5.3 For more information on offshore case declarations, see Section 10.4 below; User Guides Note 3.
- 3.6 Fees and deposits upon commencement of action
- 3.6.1 An initial deposit of S\$8,000 shall be furnished by the plaintiff upon commencement of an action in the SICC: see ROC O 110 r 49; PD para 36.
  - 3.6.2 The court fee payable by the plaintiff upon filing an originating process is S\$3,300 or S\$4,950 depending on whether the action is to be heard by a single Judge or 3 Judges: see ROC O 110 r 47. See also ANNEX C to this document.

3.6.3 For more information on fees and deposits, see ROC O 110 rr 47–50; PD Part VII.

### 3.7 Filing of documents

3.7.1 Generally, all Singapore legal practitioners, and all foreign lawyers registered under s 36P of the Legal Profession Act (Cap 161) (“Registered Foreign Lawyers”) who are granted full registration, that represent parties in proceedings in the SICC are to file documents in all proceedings using the online Integrated Electronic Litigation System (“eLitigation”) (<https://www.elitigation.sg>): see PD para 44.

3.7.2 Where it is impracticable for a Registered Foreign Lawyer who is granted full registration to file documents using eLitigation, a request for assistance to record such documents in eLitigation may be made to the Registrar. Where such request is made, the documents may be sent or made accessible to the Registrar (a) by electronic mail, (b) by personal delivery or courier to the SICC Registry of CD-ROM(s) or DVD-ROM(s) containing soft copies of the documents in PDF, or (c) by uploading soft copies of the documents in PDF in online folders designated by the SICC Registry for such purposes: see PD para 44.

3.7.3 Litigants in person may file documents through the Lawnet & CrimsonLogic Service Bureau (“Service Bureau”), whose addresses and contact details may be found on the eLitigation website at <https://www.elitigation.sg>. The Service Bureau can also be used by counsel and law firms if the modes described at Sections 3.7.1 and 3.7.2 above are not available for any reason: see PD para 45.

3.7.4 For more information on the filing of documents, see PD Part VIII.

## 4. **Service of court documents**

### 4.1 Personal service and ordinary service within Singapore

4.1.1 Any document that is required to be served on any person need not be served personally unless expressly provided for by the ROC or by an order of the SICC: see ROC O 62 r 1.

4.1.2 Generally, all originating processes must be served personally on each defendant: see ROC O 10 rr 1, 5.

4.1.3 Personal service of an originating process is effected by leaving with the person to be served a sealed copy of the originating process or in such other manner as may be agreed between the party serving and the party to be served: see ROC O 62 r 3.

4.1.4 Personal service of an originating process on a body corporate may be effected by personal service on the chairman or president of the



body, or the secretary, treasurer or other similar officer thereof: see ROC O 62 rr 3–4. See also the Companies Act (Cap 50) ss 387 (companies incorporated in Singapore), 376 (foreign companies).

- 4.1.5 Where a document need not be served personally, the document may be served by ordinary service, i.e. (a) by leaving the document at the proper address of the person to be served, (b) by post, (c) by facsimile in accordance with ROC O 62 r 6(3), (d) in such manner as may be agreed between the party serving and the party to be served or (e) in such other manner as the SICC may direct: see ROC O 62 r 6; PD para 73.
- 4.2 Process servers
  - 4.2.1 Generally, personal service is to be effected by counsel or counsel's clerk whose name and particulars have been notified to the Registrar for this purpose: see ROC O 62 r 2; PD para 70.
- 4.3 Substituted service
  - 4.3.1 If a document is required to be served personally on any person and it appears to the SICC that it is impracticable to serve that document personally on that person, the SICC may on application make an order for substituted service of that document (e.g. by posting on front door of last known address, advertisement): see ROC O 62 r 5; PD para 72.
- 4.4 Service out of jurisdiction
  - 4.4.1 A writ of summons or originating summons may be served outside of Singapore on any person who is party to a written agreement to submit to the jurisdiction of the SICC without leave of court: see ROC O 110 r 6(2)-(2A). In all other circumstances, leave of the SICC should be obtained by way of an application: see ROC O 11 rr 1–2; PD para 71(1).
  - 4.4.2 Service out of Singapore of non-originating processes such as summonses (see e.g. ROC O 32), orders (see e.g. ROC O 42 rr 8–11) or notices is permissible with leave of the SICC. However, leave will not be required if: (a) leave for service of the originating process has already been granted or (b) the document is to be served on a party to a written jurisdiction agreement: see ROC O 11 r 8; O110 r 6A(1)-(2); PD para 71(1).
  - 4.4.3 For modes of service of originating processes outside of Singapore, see ROC O 11 rr 3–5, 7.
- 4.5 Time for service

4.5.1 Where any document is served before midnight (Singapore time) on any particular day, it shall be deemed to have been served on that day: see Interpretation Act (Cap 1) s 51; ROC O 62 r 6A; PD para 74(1).

4.5.2 Where the service of any document is effected on a working day before 4pm (Singapore time), the document shall, for the purpose of computing any period of time after service of that document, be deemed to have been served on the same working day. In any other case, the document shall be deemed to be served on the following working day: see Interpretation Act (Cap 1) s 51; ROC O 62 r 8; PD para 74(2).

4.5.3 For more information on service of documents, see PD Part XI.

## **5. Pleadings**

5.1 Pleadings are required only in actions commenced by writ of summons. The main types of pleadings are explained in Sections 5.2–5.6 below.

### **5.2 Statement of claim**

5.2.1 A statement of claim must state specifically the relief or remedy which the plaintiff claims (although costs need not be specifically claimed): see ROC O 18 r 15.

5.2.2 Generally, a statement of claim must either be (a) attached to the writ of summons (i.e. as an endorsement on the writ) when the writ is served on each defendant or (b) served independently after service of the writ. In the latter situation, service of the statement of claim on a defendant must be effected before the expiration of 14 days after the defendant enters an appearance in the action: see ROC O 6 r 2, O 18 r 1.

### **5.3 Defence**

5.3.1 A defendant who enters an appearance in, and intends to defend, an action must serve a defence on the plaintiff before the expiration of 14 days after the time limited for appearing or after the statement of claim is served on the defendant, whichever is later: see ROC O 18 r 2.

### **5.4 Reply**

5.4.1 A plaintiff on whom a defendant serves a defence must serve a reply on that defendant if the plaintiff wishes to rely on any matter which must be specifically pleaded: see ROC O 18 rr 3, 8.

5.4.2 If there is no reply to a defence, there is an implied joinder of issue on that defence: see ROC O 18 rr 3, 14.

- 5.4.3 A reply to any defence must be served by the plaintiff before the expiration of 14 days after the service of that defence: see ROC O 18 r 3(4).
- 5.5 Counterclaim
- 5.5.1 A defendant who alleges the existence of any claim or entitlement to any relief or remedy against a plaintiff in the action in respect of any matter may, instead of bringing a separate action, make a counterclaim in respect of that matter, and if that is done, must add the counterclaim to his defence: see ROC O 15 r 2.
- 5.5.2 A plaintiff on whom a defendant serves a counterclaim must, if he intends to defend it, serve on that defendant a defence to counterclaim before the expiration of 14 days after the service on the plaintiff of the counterclaim: see ROC O 18 r 3(4).
- 5.6 Further and better particulars of pleadings
- 5.6.1 Further and better particulars of any claim, defence or other matter stated in a pleading would themselves stand as pleadings: see ROC O 18 r 12(3).
- 5.6.2 A party who requires further and better particulars of pleadings served by any other party must first request such particulars from that party by letter: see ROC O 18 r 12(6).
- 5.6.3 The particulars that are supplied must be served in Form 29: see ROC O 18 r 12(7).
- 5.6.4 For more information on interlocutory applications concerning further and better particulars of pleadings, see ROC O 18 r 12(3); Section 10.10 below.
- 5.7 Requirements of pleadings
- 5.7.1 Every pleading must contain only a statement in a summary form of the material facts on which the party pleading relies for any claim or defence, as the case may be, but not the evidence by which those facts are to be proved. The statement must be as brief as the nature of the case admits: see ROC O 18 r 7.
- 5.7.2 For matters which must be specifically pleaded, see ROC O 18 r 8. For matters which may or may not be pleaded, see ROC O 18 rr 9–11.
- 5.7.3 Every pleading must contain the necessary particulars of any claim, defence or other matter pleaded. For the requisite particulars of

pleadings, see ROC O 18 r 12.

5.7.4 For the formal requirements relating to pleadings, see ROC O 18 r 6.

## 5.8 Close of pleadings

5.8.1 The pleadings in an action are deemed to be closed at the expiration of 14 days after service of the reply or, if there is no reply but only a defence to counterclaim, after service of the defence to counterclaim. If neither a reply nor a defence to counterclaim is served, the pleadings are deemed to be closed at the expiration of 14 days after service of the defence: see ROC O 18 r 20.

## 5.9 Amendment of originating processes and pleadings

5.9.1 Subject to certain exceptions, before pleadings in the action are deemed to be closed, the writ of summons or pleadings may be amended once without leave of the SICC: see ROC O 20 rr 1, 3. Any other amendment to the writ or the pleadings will require leave of the SICC: see ROC O 20 r 5.

5.9.2 The amended writ and the amended pleadings must be served on the opposite party or parties in the action: see ROC O 20 rr 1, 3.

5.9.3 All amendments to an originating summons will require leave of the SICC: see ROC O 20 r 7.

5.9.4 For the form of amended originating processes and pleadings, see ROC O 20 r 10; PD para 69.

5.9.5 With the consent of all parties, the SICC may direct that parties serve memorials and counter-memorials in place of pleadings in accordance with the Optional Protocol on the Memorialisation of Proceedings in the SICC: see PD para 77(13) and Appendix F Part 1.

## 6. **Case management conferences**

### 6.1 Fixing of case management conferences

6.1.1 For proceedings commenced by way of writ of summons, the first case management conference is generally fixed 2 weeks from the close of pleadings: see PD para 75(2). Parties may apply in writing for an earlier case management conference, for example, if they would like the SICC to direct that memorials be used in lieu of pleadings: see PD para 75(2)(c). For proceedings commenced by way of an originating summons, if necessary, parties may be asked to attend or may request a case management conference for directions to be given in respect of the action: see PD para 86(6).

- 6.1.2 Where necessary or appropriate, the SICC may fix subsequent case management conferences to monitor the progress of the case: see PD para 83(1).
- 6.2 Preparation for the first case management conference
- 6.2.1 Before the first case management conference, counsel should take instructions on whether their clients are willing to proceed with alternative dispute resolution: see PD para 76(1).
- 6.2.2 Counsel should also confer and, where possible, reach a consensus on the conduct of the case: see PD para 76(2).
- 6.2.3 At least 7 working days before the first case management conference, the parties must lodge the following with the SICC Registry: (a) a Case Management Bundle, (b) a Case Memorandum, (c) a List of Issues and (d) a Proposed Case Management Plan in the prescribed form: see PD para 76(3).
- 6.2.4 Generally, the Case Management Bundle is to be prepared by counsel for the plaintiff in consultation with the other parties to the action and must include the pleadings, the Case Memorandum, the List of Issues and the Proposed Case Management Plan: see PD para 78.
- 6.2.5 The Case Memorandum must contain a short and uncontroversial description of the case and summary of the material procedural history. Parties must try to prepare an agreed Case Memorandum in every case: see PD para 79.
- 6.2.6 The List of Issues should identify the principal issues in a structured and brief manner, with sub-issues generally to be avoided. Parties must try to prepare an agreed List of Issues in every case. The List of Issues is merely used as a case management tool and does not supersede the parties' pleadings in the case: see PD para 80.
- 6.2.7 All parties must be prepared to discuss at the case management conference the issues raised in the Proposed Case Management Plan. If parties intend to seek any specific directions at the case management conference, they should indicate the orders sought in the Proposed Case Management Plan: see PD para 81.
- 6.3 Preparation for subsequent case management conferences (if any)
- 6.3.1 Where a second or subsequent case management conference is fixed, an updated Case Management Bundle must be lodged with the SICC Registry at least 7 working days before the case management conference. Unless otherwise ordered by the SICC, counsel for the plaintiff is responsible for updating the Case Management Bundle: see PD para 83.

## 6.4 Conduct of case management conferences

- 6.4.1 Case management conferences will generally be conducted as an oral hearing with the attendance of lead counsel being compulsory: see PD para 77(1).
- 6.4.2 Counsel appearing at the case management conference are expected to be in a position to inform the Judge(s) of all matters pertinent to the making of orders or giving of directions for the just, expeditious and economical disposal of the cause or matter. For some of the matters that the Judge(s) may make orders or give directions on, see PD para 77(2).
- 6.4.3 The SICC may, where appropriate, direct that a case management conference be conducted via teleconference or video conference. Parties may also submit a request for a case management conference to be conducted in this manner: see PD paras 77(3)–(5).
- 6.4.4 With the consent of all parties, the SICC may direct that a case management conference be conducted by a review of papers in lieu of a hearing: see PD paras 77(6)–(8).
- 6.4.5 Where the SICC consists of 3 Judges, any one of the 3 Judges may hear any case management conference in the proceedings: see ROC O 110 r 53(1A).
- 6.4.6 At the case management conference, the SICC may fix a progress monitoring date which is generally 14 calendar days after the production of documents. At least 7 working days before the progress monitoring date, parties must complete a Progress Monitoring Information Sheet in the prescribed form to inform the SICC if the pre-trial timetable has been complied with and if parties are ready for trial on the fixed dates: see PD para 84.

## 6.5 Non-compliance with directions made at a case management conference

- 6.5.1 If parties are unable to comply with any directions or timelines given at the case management conference, parties must inform the SICC as soon as practicable and may request that a case management conference be fixed to obtain further directions: see PD para 82(2).
- 6.5.2 In the event of non-compliance by one party, the other party may apply to the SICC to (a) direct compliance, (b) impose costs or other sanctions and/or (c) seek further directions: see PD paras 82(4)–(5).

## 6.6 Variation or amendment of case management directions

- 6.6.1 Where all parties agree, any party may apply for an order to vary or amend any direction or timeline. The SICC may (a) make the order proposed by the parties, (b) direct that the parties attend a further case management conference and/or (c) give any other directions on the further conduct of the cause or matter: see PD para 82(5A).
- 6.7 Pre-trial case management conference and trial timetable
- 6.7.1 The SICC may order a pre-trial case management conference which normally takes place between 8 and 4 weeks before the date fixed for trial. At least 7 working days before the pre-trial case management conference, the party responsible for updating the Case Management Bundle must file a draft trial timetable and the Pre-Trial Checklist in the prescribed forms: see PD para 85.
- 6.8 Case management conferences for inter partes originating summonses
- 6.8.1 If necessary, parties may be asked to attend a case management conference for directions in respect of the conduct of an inter partes originating summons (i.e. an originating summons heard between parties). Parties may also request that a case management conference be convened: see PD para 86.
- 6.9 For more information on case management conferences, see PD Part XII.

## 7. **Joinder of other persons as parties**

- 7.1 Requirements for joinder
- 7.1.1 A person may be joined as a party (including as an additional plaintiff or defendant, or as a third or subsequent party) to an action if (a) the requirements under ROC O 15 r 4 for joinder of parties (e.g. where some common question of law or fact would arise between the existing parties and the additional party) are met and (b) the claims by or against the person do not include a claim for a prerogative order (such as a mandatory order, a prohibiting order, a quashing order or an order for review of detention) and are appropriate to be heard in the SICC: see ROC O 110 r 9, O 15 r 4.
- 7.1.2 A State or the sovereign of a State may not be joined to proceedings in the SICC unless: (a) it has submitted to the jurisdiction of the SICC under a written jurisdiction agreement: see ROC O 110 r 9(2) or (b) the proceedings are proceedings under the International Arbitration Act (Cap 143A): see ROC O 110 r 56(1)(d).
- 7.2 Misjoinder and nonjoinder of parties
- 7.2.1 No cause or matter shall be defeated by reason of the misjoinder or nonjoinder of any party: see ROC O 15 r 6(1).

- 7.2.2 The SICC may, on its own motion or upon an application, order at any stage of the proceedings on such terms as it thinks just that (a) any person who has been improperly or unnecessarily made a party or who has ceased to be a proper or necessary party, cease to be a party or (b) any person who ought to have been joined as a party, be added as a party: see ROC O 15 rr 6(2)–(3).
- 7.3 Change of parties by reason of death, etc.
- 7.3.1 An action shall not abate by reason of the death or bankruptcy of a party: see ROC O 15 r 7(1).
- 7.3.2 Where the interest or liability of any party is assigned or transmitted to or devolves upon some other person, the SICC may order that other person to be made a party and the proceedings to be carried on as if that party had been substituted for the first-mentioned party: see ROC O 15 r 7(2).

## **8. Production of documents**

- 8.1 Scope of production
- 8.1.1 Each party must provide all documents available to it and on which it relies, within the time and in the manner ordered by the SICC: see ROC O 110 r 14.
- 8.1.2 Copies of a document may be produced unless the SICC orders, or a party requests, the inspection of the original: see ROC O 110 r 20.
- 8.2 Request to produce documents, objection to production and application to order production
- 8.2.1 A party (“requesting party”) may serve a request to produce on any person (“requested person”) within the time ordered by the SICC. The request to produce must state, among other things, how the requested documents are relevant and material to the requesting party’s case. It is not sufficient that the documents may lead to a train of inquiry resulting in the obtaining of information which may adversely affect or support a party’s case: see ROC O 110 r 15; PD para 91.
- 8.2.2 A requested person who objects to production must serve a notice of objection on the requesting party stating the reasons for the objection. The notice of objection must be served within 14 days after being served with the request to produce if the requested person is a party to the proceedings. If the requested person is not a party to the proceedings, the notice of objection must be served within 28 days after being served with the request to produce: see ROC O 110 r 16.



- 8.2.3 The requesting party may, within 14 days after being served with a notice of objection, apply to the SICC by summons for an order to produce the documents objected to: see ROC O 110 r 17.
- 8.2.4 For more information on requests for production of documents, see PD Part XIV.
- 8.3 Pre-action production
  - 8.3.1 An application for the production of documents may be made to the SICC before the commencement of proceedings. Such an application must be made by originating summons and be supported by an affidavit: see ROC O 110 rr 18–19.
- 8.4 Document discovery regime not applicable
  - 8.4.1 The document discovery regime applicable to domestic General Division cases does not apply to proceedings in the SICC unless otherwise ordered by the SICC, or ordered by the General Division when transferring a case to the SICC: see ROC O 110 r 21.
  - 8.4.2 The SICC may, with the consent of parties, dispense with discovery, inspection or production of documents: see ROC O 110 r 21A.

## **9. Evidence**

- 9.1 Affidavits of evidence-in-chief for trial
  - 9.1.1 Evidence-in-chief of a witness is generally given by way of affidavit (i.e. an affidavit of evidence-in-chief) and the witness shall attend trial for cross-examination unless the SICC orders otherwise or the parties to the action agree that the witness need not attend: see ROC O 38 r 2(1).
  - 9.1.2 The affidavit of evidence-in-chief must contain only material facts which the witness is able to prove from his own knowledge: see ROC O 41 r 5(1). For more information on the formal requirements of an affidavit of evidence-in-chief, see PD paras 111–116.
  - 9.1.3 The SICC will normally specify in a case management conference the period within which the exchange of affidavits of evidence-in-chief is to take place between the parties and a further period within which objections to the contents of the affidavits of evidence-in-chief are to be taken by each party before trial: see ROC O 25 r 3(1). With the consent of all parties, the SICC may direct that parties exchange affidavits of evidence-in-chief prior to discovery and/or the production of documents in accordance with the Optional Protocol on the Exchange of Affidavits of Evidence-in-Chief Before Production of Documents: see PD para 77(13) and Appendix F Part 2(1).

- 9.2 Dispensation with the use of affidavit of evidence-in-chief
- 9.2.1 Leave of the SICC is required if a party wishes to call a witness to give evidence-in-chief orally and dispense with the use of an affidavit of evidence-in-chief: see ROC O 38 r 2(4).
- 9.3 Expert evidence
- 9.3.1 In the SICC, expert witnesses (where required) are generally engaged and appointed by the respective parties in the dispute. The SICC may, in any case, direct court-appointed experts to give evidence at trial.
- 9.3.2 Generally, expert evidence is to be given in a written report signed by the expert and exhibited in an affidavit sworn to or affirmed by the expert testifying that the report is that of the expert and that the expert accepts full responsibility for the report: see ROC O 40A r 3(1). For more information on what an expert's report should contain, see ROC O 40A r 3(2).
- 9.3.3 At trial, expert witnesses will generally give evidence after all the witnesses of fact have given evidence: see PD para 89(2).
- 9.3.4 The SICC may direct the evidence of several experts to be taken concurrently (this is also sometimes referred to as “hot tubbing” or “witness conferencing”). The manner in which concurrent expert evidence is to be taken is at the SICC’s discretion: see PD para 90.
- 9.3.5 For more information on expert evidence, see PD Part XIII.
- 9.4 Determination of foreign law
- 9.4.1 Parties may apply for questions of foreign law to be determined on the basis of submissions (which may be oral or written or both) instead of being proven by evidence. The SICC may make such an order if it is satisfied that each party is or will be represented by a counsel, a Registered Foreign Lawyer who has been granted restricted registration, or a law expert registered under Section 36PA of the Legal Profession Act (Cap 161) (“Registered Law Expert”), that is suitable and competent to submit on the relevant questions of foreign law: see ROC O 110 r 25(2); PD para 110.
- 9.4.2 Any person who wishes to make submissions on questions of foreign law must have a right of audience before the SICC, which may be acquired by way of application for registration with the SICC: see Legal Profession Act (Cap 161) ss 36P, 36PA; Legal Profession (Representation in Singapore International Commercial Court) Rules 2014; User Guides Note 3; Sections 20.2–20.3 below.

## 9.5 Disapplication of Singapore evidence law

9.5.1 The SICC may, on the application of a party, order that any rule of Singapore evidence law shall not apply, and that other rules of evidence (if any) whether found in foreign law or otherwise shall apply instead: see ROC O 110 r 23(1); User Guides Note 4.

9.5.2 Such an application can only be made if all parties agree on (a) the rules of evidence that shall not apply and (b) any rules of evidence that shall apply instead: see ROC O 110 r 23(2); User Guides Note 4.

## 10. **Common interlocutory applications**

10.1 On interlocutory applications generally, see PD Part XVII. The following explains in more detail some of the common types of interlocutory applications that parties may encounter in SICC proceedings.

### 10.2 Security for costs

10.2.1 The SICC may, on the application of a defendant to a claim or counterclaim in SICC proceedings, order the plaintiff in the claim or counterclaim to provide security for the defendant's costs in defending the claim or counterclaim: see ROC O 110 r 45, O 23.

10.2.2 The defendant may also seek security for its costs against a non-party if it appears that (a) the non-party has assigned its claim to the plaintiff with a view to avoiding liability for costs or (b) the non-party has contributed or agreed to contribute to the plaintiff's costs in return for a share of the proceeds of the action: see ROC O 110 r 45(1), O 23 r 1(3).

10.2.3 Where an order is made requiring any party to give security for costs, the security shall be given in such manner, at such time and on such terms (if any) as the SICC may direct: see ROC O 110 r 45(1), O 23 r 2.

### 10.3 Stay of proceedings

10.3.1 In an action commenced by writ of summons, a defendant who wishes to persuade the SICC not to assume jurisdiction over the matter must, within the time limited for serving a defence, make an application for a stay of proceedings: see ROC O 110 r 11(1), O 12 r 7.

10.3.2 In an action commenced by originating summons, a defendant who wishes to persuade the SICC not to assume jurisdiction over the matter must, within 21 days after service of the originating summons and the supporting affidavit(s) on the defendant, make an application

for a stay of proceedings: see ROC O 110 r 11(2), O 28 r 2A.

#### 10.4 “Offshore case” declaration

- 10.4.1 A party may be represented in an “offshore case” by a Registered Foreign Lawyer who has been granted full registration: see PD para 26; User Guides Note 3.
- 10.4.2 For the definition of an “offshore case”, see Section 3.5.1 above.
- 10.4.3 A party may apply to the SICC for a declaration that an action is an “offshore case”. Such application must, among other things, be made by summons and supported by an affidavit: see ROC O 110 r 36.
- 10.4.4 The SICC may at any time decide that an action is not or is no longer an offshore case but may, in the interests of a just, economical and expeditious disposal of the proceedings, allow a party who has been represented by a foreign lawyer to continue to be so represented: see ROC O 110 r 37.
- 10.4.5 Paragraphs 10.4.3 and 10.4.4 do not apply to proceedings under the International Arbitration Act (Cap 143A) that are heard by the SICC. Any “offshore case” declaration filed in relation to any proceedings under the International Arbitration Act (Cap 143A) is of no effect: see ROC O 110 r 56.

#### 10.5 Injunctions

- 10.5.1 Interim injunctions are usually sought to preserve certain rights pending the full adjudication of a dispute. Examples of injunctive relief include search orders and freezing orders.
- 10.5.2 An application for the grant of an injunction may be made by any party to a cause or matter before or after the trial of the cause or matter: see ROC O 29 r 1. Where the case is one of urgency, the application can be made ex parte (i.e. where only the applicant is heard): see ROC O 29 r 1(2); PD para 107.
- 10.5.3 For more information on how to make an urgent injunction application during and after office hours, see PD paras 14–15, 54. For more information on freezing orders, see User Guides Note 5.

#### 10.6 Striking out

- 10.6.1 A party may apply to the SICC to strike out any pleading or the endorsement of any writ on the ground that (a) it discloses no reasonable cause of action or defence, as the case may be, (b) it is scandalous, frivolous or vexatious, (c) it may prejudice, embarrass or delay the fair trial of the action or (d) it is otherwise an abuse of the

process of the court: see ROC O 18 r 19.

## 10.7 Summary judgment

- 10.7.1 After the defendant has served a defence on the plaintiff, the plaintiff may apply for judgment against the defendant on the ground that the defendant has no defence to a claim included in the writ, or to a particular part of such a claim, or has no defence to such a claim or part except as to the amount of damages claimed: see ROC O 14 r 1.
- 10.7.2 Generally, upon such an application the SICC may (a) dismiss the application, (b) give judgment for the plaintiff, (c) give the defendant unconditional leave to defend or (d) give the defendant conditional leave to defend (e.g. leave to defend may be conditional upon the defendant furnishing some form of security): see ROC O 14 rr 3–4.
- 10.7.3 A defendant with a counterclaim against the plaintiff may also apply for summary judgment against the plaintiff in respect of the whole or any part of the defendant's counterclaim after the plaintiff has served his defence to the counterclaim on the defendant: see ROC O 14 r 5.

## 10.8 Judgment in default of appearance

- 10.8.1 In an action commenced by writ of summons, where the defendant fails to enter an appearance within the time limited to do so, the plaintiff may enter judgment against the defendant: see ROC O 13 rr 1–7.

## 10.9 Judgment in default of pleadings

- 10.9.1 Where the defendant fails to serve a defence on the plaintiff within the time limited to do so, the plaintiff may enter judgment against the defendant: see ROC O 19 rr 2–7, 8A.
- 10.9.2 For judgment in default of a defence to counterclaim, see ROC O 19 r 8.

## 10.10 Further and better particulars of pleadings

- 10.10.1 On the requirements of pleadings, see Section 5.7 above.
- 10.10.2 A party who requires further and better particulars of pleadings served by any other party must first request such particulars from that party by letter: see ROC O 18 r 12(6); Section 5.6 above.
- 10.10.3 If the request by letter is denied, the party seeking particulars can then apply to the SICC for an order compelling the giving of further and better particulars: see ROC O 18 r 12(3).

10.10.4 Further and better particulars will not be ordered before service of the defence unless, in the opinion of the SICC, such particulars are necessary or desirable to enable the defendant to plead or for some other special reason: see ROC O 18 r 12(5).

#### 10.11 Production of documents

10.11.1 See Section 8 above.

#### 10.12 Interrogatories

10.12.1 Generally, interrogatories are a procedure by which a person may be required to answer questions relating to the existence of some fact within that person's knowledge and which are relevant to the dispute.

10.12.2 A party may serve interrogatories on another party relating to any matter in question between them. The interrogatories must be relevant and material to the serving party's case: see ROC O 110 rr 22(1)–(3).

10.12.3 The party on whom interrogatories are served must respond by serving the answers in an affidavit or by serving a notice of objection with reasons for the objection stated: see ROC O 110 r 22(4).

10.12.4 If the party serving the interrogatories is dissatisfied with the response, an application may be made to the SICC by way of a summons supported by an affidavit seeking an appropriate order: see ROC O 110 r 22(5).

#### 10.13 Confidentiality orders

10.13.1 The SICC may, on the application of a party, make all or any of the following orders: (a) an order that the case be heard in camera, (b) an order that no person must reveal or publish any information or document relating to the case, (c) an order that the court file be sealed: see ROC O 110 r 30(1); PD para 97(1).

10.13.2 In deciding whether to make any of the above-mentioned orders, the SICC may have regard to (a) whether the case is an "offshore case" (see Section 3.5.1 above) and (b) any agreement between the parties on the making of such an order: see ROC O 110 r 30(2); PD para 97(3).

10.13.3 Paragraphs 10.13.1 and 10.13.2 do not apply to proceedings under the International Arbitration Act (Cap 143A) that are heard by the SICC. In relation to such proceedings, the SICC shall, on the application of a party, order that the proceedings be heard otherwise than in open court, and give directions as to whether any and, if so, what information relating to the proceedings may be published: see International Arbitration Act (Cap 143A) ss 22 and 23; ROC O 110 r

56(1)(f); PD para 97(4).

#### 10.14 Separate trials of separate issues

10.14.1 Parties may apply to the SICC for the separate trial of separate issues or questions. In this regard, the main types of orders which the SICC can make are (a) the separate trial of a preliminary point of law, (b) the separate trial of preliminary issues or questions and (c) the separate trial of the issues of liability and damages: see ROC O 33 rr 2–3.

### 11. **Pre-trial preparation**

#### 11.1 Set down

11.1.1 When an action begun by writ of summons is ready for hearing, the plaintiff must file a notice for setting down the action for trial in the prescribed form together with the Set Down Bundle: see ROC O 34 r 3.

11.1.2 For more information on the documents that must be included in the Set Down Bundle, see PD para 126.

#### 11.2 Subpoenas

11.2.1 Generally, a subpoena is a court document issued upon request by a party requiring (a) a witness to physically attend proceedings in the SICC to give oral evidence, (b) a person named to produce documents without the obligation to attend proceedings in the SICC personally or (c) a witness to both physically attend proceedings in the SICC and produce documents: see ROC O 38 rr 14–20.

11.2.2 A subpoena must generally be served personally within 12 weeks after the date of its issue, and a subpoena shall not be served on any person outside of Singapore: see ROC O 38 r 18.

#### 11.3 Requests for technology facilities

11.3.1 The SICC courtrooms and chambers are equipped with advanced technology facilities to enable the parties and counsel to present their cases more effectively in hearings.

11.3.2 Technology facilities such as teleconference, video conference and audio-visual facilities, etc. can be made available upon a formal request made to the SICC: see PD paras 57–59.

#### 11.4 Digital transcription system

- 11.4.1 The digital transcription system is an integrated system which facilitates the audio recording of hearings and the preparation of transcripts. The audio recording shall constitute the official record of hearing: see ROC O 38A r 1(1); PD para 17.
- 11.4.2 Parties may apply for a certified transcript of the official record of hearing on payment of the applicable fees: see ROC O 38A r 1(2); PD para 17.
- 11.5 Interpretation services
  - 11.5.1 All open court and chamber hearings in the SICC are conducted in English.
  - 11.5.2 Counsel or parties who require the services of court interpreters should submit their requests to the Supreme Court Interpreters Section not less than 7 working days before the day on which the services of an interpreter are required: see PD para 16(3).
  - 11.5.3 The languages which the Supreme Court Interpreters Section provides interpretation services for include Mandarin, Malay and Tamil. For the full list of languages and dialects for which court interpretation services are available, please visit the Supreme Court's website at [www.judiciary.gov.sg](http://www.judiciary.gov.sg), under the "Services" tab.
  - 11.5.4 Alternatively, counsel or parties may engage the services of a private interpreter: see PD para 16(10).

## **12. Trial**

### **12.1 Opening statements**

- 12.1.1 Opening statements are required from all parties in actions commenced by writ of summons except where dispensation has been granted by the SICC: see PD para 119(1)(a).
- 12.1.2 An opening statement sets out a party's case in a summary form, both as to facts and law. It should identify the issues that are, and are not, in dispute. This will enable the SICC to appreciate the real issues in dispute: see PD para 119(1).
- 12.1.3 All opening statements should not exceed 20 pages (including all annexes and appendices, but excluding the cover page and backing page): see PD para 119(1)(e).

### **12.2 Order of presenting cases by the respective parties**

- 12.2.1 Generally, trial proceedings will begin with the plaintiff providing an oral opening address, followed by an oral address by the defendant,



to outline and supplement the parties' respective opening statements. Thereafter, the plaintiff will proceed to call witnesses to give evidence in court, i.e. through examination-in-chief, cross-examination and re-examination.

12.2.2 Generally, after the plaintiff's witnesses have given evidence and have been cross-examined and re-examined, the defendant's witnesses will then give evidence in court. The procedure for the examination of the defendant's witnesses is the same as that for the plaintiff's witnesses: see Section 12.4 below.

12.2.3 However, testimony by expert witnesses may not follow the same sequence and procedure as set out in Section 12.2.2 above. On expert evidence, see Section 9.3 above.

12.2.4 At the conclusion of the examination of all the witnesses of both the plaintiff and the defendant, closing submissions by each party will be made to the SICC: see PD para 122; Section 12.5 below.

### 12.3 Mode of giving evidence

12.3.1 As the evidence sought to be adduced by each witness would already be contained in an affidavit of evidence-in-chief (see Section 9.1 above), the examination-in-chief of each witness is generally short and brief: see PD paras 111, 120(2).

12.3.2 Unless expressly allowed by the SICC, once a witness of fact commences cross-examination, the witness of fact shall not be permitted to discuss the evidence with anyone, including any counsel, until that witness of fact is released from oath after re-examination: see PD para 120(4).

12.3.3 On expert evidence, see Section 9.3 above.

### 12.4 Cross-examination and re-examination

12.4.1 After the examination-in-chief of a witness is completed, the adverse party is entitled to ask the witness questions. This is known as cross-examination of the witness. Questions intended to insult or embarrass the witness are not allowed. Questions which are not relevant to the issue at hand can also be objected to: see PD para 120(3).

12.4.2 After cross-examination, the party who called the witness is allowed to ask further questions of the witness to clarify the answers given by the witness during cross-examination. This is known as re-examination of the witness: see PD para 120(5).

12.4.3 The SICC may, at any time, ask the witness questions. Where the questions elicit answers not previously dealt with by the parties, the

parties will be given a reasonable opportunity to direct questions to that witness on the answers given: see PD para 120(6).

## 12.5 Closing submissions

12.5.1 Unless otherwise directed, the SICC will require written closing submissions from the parties. Written closing submissions will generally be filed and exchanged between the parties simultaneously and, unless otherwise directed, will be followed by the filing and exchange of written reply submissions: see PD paras 122(1)–(2).

12.5.2 After all written closing submissions have been filed and exchanged, the parties will be allowed to make oral submissions if so directed by the SICC. The SICC may impose limits on the length of time each party is given for oral submissions: see PD para 122(3).

## 12.6 Judgment

12.6.1 The SICC may pronounce judgment immediately after the parties' closing oral submissions (where oral submissions are required by the SICC). Alternatively, it may reserve judgment and adjourn the case to consider the evidence and arguments. In such an instance, the SICC may inform the parties on a later date to attend before the court for the delivery of judgment: see ROC O 42 r 1. Where a written judgment is to be delivered, the SICC may direct that copies of the written judgment be handed to the parties or their counsel without requiring their attendance in court.

12.6.2 For more information on the extraction of judgments and orders by the parties: see ROC O 42 r 8; PD paras 133–134.

## 12.7 Assessment of damages / taking of accounts

12.7.1 In certain cases, the SICC may grant judgment only on the issue of liability and defer its ruling on the precise quantum of damages that has to be paid to the winning party.

12.7.2 In such situations, the quantum of damages to be awarded is to be assessed by the same Judge(s) who gave judgment for damages to be assessed unless the Judge(s) orders the Registrar to assess the damages: see ROC O 110 r 52.

12.7.3 The SICC may also order the taking of accounts whereby the court determines the quantum involved in a dispute. The SICC may make such order on an application made by summons at any stage of the proceedings. The SICC may also make such order after determining the liability of a party or parties to an action: see ROC O 43.

## 13. **Appeals**

- 13.1 Appeals against a judgment or order of the SICC shall be filed in the Court of Appeal. An appeal to the Court of Appeal must be brought by way of notice of appeal: see PD para 140.
- 13.2 At the time of filing the notice of appeal, the appellant must provide security for the respondent's costs of the appeal against any judgment or order of the SICC in the sum of S\$20,000 for any appeal against an interlocutory order and S\$30,000 for any other appeal: see ROC O 110 r 45A.
- 13.3 Constitution of the Court of Appeal
- 13.3.1 Generally, the Court of Appeal will consist of 3 or any greater uneven number of Judges: see Supreme Court of Judicature Act (Cap 322) s 50(1); ROC O 110 r 53(2); PD para 24. An International Judge may sit in the Court of Appeal in an appeal from any judgment or order of the SICC and in an application relating to such an appeal: see Supreme Court of Judicature Act (Cap 322) s 5A.
- 13.3.2 The Court of Appeal may decide the following cases without hearing oral arguments: (a) any application to the Court of Appeal, whether under the Supreme Court of Judicature Act or any other written law, and (b) any appeal to the Court of Appeal specified in paragraph 2 of the Eighth Schedule: see Supreme Court of Judicature Act (Cap 322) s 55(1) and Eighth Schedule.
- 13.4 Matters that are non-appealable or appealable only with leave
- 13.4.1 For matters that are non-appealable, see Supreme Court of Judicature Act (Cap 322) s 29 and Fourth Schedule. Examples include cases where the judgment or order is made by consent of the parties.
- 13.4.2 For matters that are appealable only with leave, see Supreme Court of Judicature Act (Cap 322) s 29A and Fifth Schedule. Examples include (a) cases where the amount in dispute, or the value of the subject-matter, at the hearing before the SICC does not exceed S\$250,000 and (b) cases where the only issue in the appeal would relate to costs or fees for hearing dates.
- 13.4.3 For the procedure for obtaining leave to appeal, see Supreme Court of Judicature Act (Cap 322) s 29A; ROC O 57 r 16.
- 13.5 Appeals procedure and timelines
- 13.5.1 Generally, every notice of appeal must be filed and served within 1 month from the respective date as set out in ROC O 57 r 4; PD para 141.

- 13.5.2 For more information on the documents to be submitted by the appellant and the respondent to the Court of Appeal in an appeal, see ROC O 57 rr 9–9A; PD paras 144–149.
- 13.5.3 The Court of Appeal may decide any appeal to the Court of Appeal specified in paragraph 2 of the Eighth Schedule without hearing oral arguments: see Supreme Court of Judicature Act (Cap 322) s 55(1) and Eighth Schedule. For more information on appeals to the Court of Appeal generally, see PD Part XXII.
- 13.6 Applications filed to the Court of Appeal
- 13.6.1 Any application to the Court of Appeal after the notice of appeal has been filed must be taken out by way of a summons. Where there is no appeal pending before the Court of Appeal, the application must be taken out by way of an originating summons: see ROC O 57 r 16(1). The Court of Appeal may decide any application to that Court without hearing oral arguments: see Supreme Court of Judicature Act (Cap 322) s 55(1)(a).
- 13.7 Applications that may be made either to the SICC or the Court of Appeal
- 13.7.1 Where an application may be made either to the SICC or to the Court of Appeal, and the application is first made to the SICC pursuant to s 57 of the SCJA: (a) if the application is refused by the SICC, and the applicant still wishes to obtain the relief sought in the refused application, the applicant should make an application to the Court of Appeal for the same relief, instead of filing an appeal to the Court of Appeal; and (b) in any event, any party who wishes to vary or discharge any direction or order made by the SICC on the application should likewise make an application to the Court of Appeal to vary or discharge that direction or order, instead of filing an appeal to the Court of Appeal: see PD para 142A(1).
- 13.7.2 Except as provided in Section 13.7.1, any party who is dissatisfied with a decision of the SICC may file an appeal to the Court of Appeal against that decision in accordance with the relevant provisions of the SCJA and the applicable rules of civil procedure: see PD para 142A(2).

## **14. Costs**

- 14.1 The costs of and incidental to any application or proceedings are in the discretion of the SICC. The SICC has full power to determine by whom and to what extent costs are to be paid: see PD para 152.
- 14.2 Costs may be dealt with at any stage of the proceedings or after its conclusion. The SICC may require parties to provide costs schedules with closing submissions, or costs estimates or budgets in the course of proceedings: see

PD para 152(4).

#### 14.3 Considerations in assessing costs

14.3.1 The unsuccessful party in any application or proceedings in the SICC, or in any appeal from a decision of the SICC, must pay the reasonable costs of the successful party, unless otherwise ordered: see ROC O 110 rr 46(1)–(2); PD para 152(2)(a).

14.3.2 The SICC may (a) apportion costs between the parties, (b) take into account relevant circumstances such as the conduct of the case and the existence, scope, extent and terms of any third-party funding contract, (c) order that costs be borne personally by a counsel, a Registered Foreign Lawyer who is granted restricted registration or a Registered Law Expert, by a Third-Party Funder, or by any other non-party, (d) order interest on costs or (e) make ancillary orders including stipulations on the time and manner of payment of costs: see ROC O 110 r 46(3); PD paras 152(2)(b), 152(3).

14.3.3 In assessing costs, the SICC may also take into account any payment of money into court or offer to settle, and the conduct of the parties in relation to that payment into court or offer to settle: see PD para 152(5).

#### 14.4 Fixed costs if claim is satisfied in accordance with endorsement on writ

14.4.1 In an action commenced by way of writ of summons, if the defendant satisfies the claim in the time and manner required by the endorsement on the writ, the costs allowed will be fixed at S\$5,000: see ROC O 110 rr 46(4)–(5).

### 15. **Court fees**

15.1 Court fees are fees payable upon the occurrence of certain prescribed milestone events at various stages of the proceedings. For more information on the prescribed milestone events and the corresponding court fees that are payable, see ROC O 110 r 47, ROC Appendix BA. See also Annex C to this document.

15.2 Fixed court fees are also stipulated for the use of technology facilities in the SICC: see ROC O 110 r 47(4); PD para 60.

15.3 For more information on the modes of payment of court fees, see ROC O 110 r 47(7); PD para 41.

### 16. **Hearing fees**

16.1 Hearing fees are fees payable for hearings conducted by the SICC or the Court of Appeal. For more information on the prescribed hearing fees for the various

types of hearings involved, see ROC O 110 r 48. See also Annex D to this document.

16.2 For more information on the modes of payment of hearing fees, see PD para 41.

**17. Deposit**

17.1 Every party to a case in the SICC must pay to the Registrar a deposit of such amount and in such form as specified in the PD: see ROC O 110 r 49; PD para 36. An initial deposit of S\$8,000 shall be furnished by the plaintiff upon commencement of an action in the SICC: see PD para 36.

17.2 For more information on the deduction, maintenance and refund of the deposit, see PD paras 37–40.

**18. Enforcement of SICC judgment or order in Singapore**

18.1 The enforcement in Singapore of a judgment or order of the SICC is to be in accordance with the ROC: see ROC O 45; PD para 138. The ways in which enforcement may be carried out include the issue of a writ of execution (see ROC O 46 and O 47), examination of judgment debtor (see ROC O 48), garnishee proceedings (see ROC O 49) and equitable execution (see ROC O 51).

**19. Enforcement of SICC judgment or order abroad**

19.1 A judgment or order of the SICC is an order of a superior court of law and may be enforced accordingly: see Section 1.1.1 above.

19.2 Upon registration of a SICC judgment under the reciprocal frameworks in the countries covered by the Reciprocal Enforcement of Commonwealth Judgments Act (Cap 264) and the Reciprocal Enforcement of Foreign Judgments Act (Cap 265), the SICC judgment can be given the same effect and directly enforced as if it was a judgment issued by a national court of the country of enforcement, save for certain limited exceptions. The Acts cover the United Kingdom, Australia (federal jurisdiction, New South Wales, Queensland, South Australia, Tasmania, Victoria, Western Australia, Australian Capital Territory, Norfolk Island and Northern Territory), New Zealand, Sri Lanka, Malaysia, Windward Islands, Pakistan, Brunei Darussalam, Papua New Guinea, India (except the State of Jammu and Kashmir) and Hong Kong Special Administrative Region of the People's Republic of China.

19.3 Under the Hague Convention on Choice of Court Agreements, which Singapore has ratified, a judgment or order of the SICC may be recognised and enforced in States which are party to the Convention: see Choice of Court Agreements Act (Cap 39A). These States include all member States of the European Union, Mexico and Montenegro.

19.4 A judgment or order of the SICC may also be enforced in common law

jurisdictions by way of commencing an action on the judgment debt in those jurisdictions.

- 19.5 A judgment or order of the SICC may also be enforced in certain civil law jurisdictions on the basis of reciprocity between superior courts of law.

## **20. Legal representation in proceedings in the SICC**

- 20.1 Representation by advocates and solicitors, and Singapore law qualified lawyers

20.1.1 Advocates and solicitors of the Singapore Supreme Court practising in a Singapore Law Practice have a right to appear and plead in the SICC: see Legal Profession Act (Cap 161) s 29(1).

20.1.2 Singapore law qualified lawyers practising Singapore law in a Joint Law Venture or its constituent foreign law practice, a Qualifying Foreign Law Practice or a licensed foreign law practice also have a right to appear and plead in any relevant proceedings and relevant appeal: see Legal Profession Act (Cap 161) s 36E; Legal Profession (Regulated Individuals) Rules 2015 r 14(1)(c). For definitions of “relevant proceedings” and “relevant appeal”, see Legal Profession Act s 36O(1); Legal Profession (Representation in Singapore International Commercial Court) Rules 2014 r 3.

- 20.2 Representation by foreign lawyers or law experts

20.2.1 Registered Foreign Lawyers who are granted full registration may represent parties in an “offshore case” (see Section 3.5.1 above) and an application to punish for contempt in connection with proceedings in which foreign representation was permitted: see Legal Profession Act (Cap 161) s 36P(1); Legal Profession (Representation in Singapore International Commercial Court) Rules 2014 r 3(2)(b), (c) and (d); PD para 26; User Guides Note 3.

20.2.2 Registered Foreign Lawyers (whether granted full registration or restricted registration) and Registered Law Experts may represent parties solely for the purposes of submitting on matters of foreign law where the SICC has ordered for a question of law to be determined on the basis of submissions instead of proof (see Section 9.4 above) and the SICC has permitted the named Registered Foreign Lawyer or Registered Law Expert to make those submissions on behalf of a party: see Legal Profession Act (Cap 161) ss 36P(1) and (2) and 36PA(1); Legal Profession (Representation in Singapore International Commercial Court) Rules 2014 r 3(2)(e); PD para 26; User Guides Note 3.

- 20.3 Registration of foreign lawyers or law experts

- 20.3.1 Every foreign lawyer or law expert representing a party to proceedings commenced in or transferred to the SICC, and in appeals from such proceedings, must be registered as a Registered Foreign Lawyer or Registered Law Expert (as the case may be): see Legal Profession Act (Cap 161) ss 36P and 36PA; PD paras 27 and 27A. There are 2 types of registration for Registered Foreign Lawyers, namely full registration and restricted registration: see Legal Profession Act (Cap 161) s 36P(1) and (2); Legal Profession (Representation in Singapore International Commercial Court) Rules 2014 r 4.
- 20.3.2 A foreign lawyer granted full registration may appear or represent any party in any relevant proceedings or relevant appeal, or give advice, prepare documents and provide any other assistance in relation to any relevant proceedings or relevant appeal: see Legal Profession Act (Cap 161) s 36P(1).
- 20.3.3 A foreign lawyer granted restricted registration or a Registered Law Expert may appear in any relevant proceedings or relevant appeal, or give advice and prepare documents, solely for the purposes of making submissions on such matters of foreign law permitted by the SICC or the Court of Appeal: see Legal Profession Act (Cap 161) ss 36P(2) and 36PA(1).
- 20.3.4 An application for registration must be made in accordance with the Legal Profession (Representation in Singapore International Commercial Court) Rules 2014. Such an application will be processed within 14 days after all information required for processing the application is submitted to the Registrar: see Legal Profession (Representation in Singapore International Commercial Court) Rules 2014 rr 9(2) and 12D(2).
- 20.4 Notice of counsel on record
- 20.4.1 A party to proceedings in the SICC must file and serve a notice stating all the counsel acting for the party in the proceedings: see ROC O 110 r 33; PD para 28. A party to proceedings that are transferred to the Court need not file such a notice upon the transfer, if the party did not change counsel after the transfer: see ROC O 110 r 33(2A); PD para 28(2A). Such a notice is also to be filed whenever a party appoints any additional counsel to act for that party: see ROC O 110 r 33(2)(c). A further notice must be filed and served if a party changes the counsel acting for him or appoints counsel after acting in person: see ROC O 110 r 33(3); PD para 28(3).



## **ANNEX A - TYPICAL PROCEDURE OF AN SICC ACTION COMMENCED BY WRIT OF SUMMONS**

### **Plaintiff files Writ of Summons (WOS) and Statement of Claim (SOC)**

The WOS must be accompanied by a plaintiff's declaration in accordance with O 110 r 4(4) and r 4(5) of the Rules of Court (ROC). Any offshore case declaration that the Plaintiff wishes to rely on must be exhibited in the declaration (O 110 r 35(3)(a) of ROC).



### **Plaintiff serves the WOS and the SOC on the Defendant**

Service to be effected in accordance with O 10 read with O 110 r 6 of ROC.



### **Defendant enters an appearance in the SICC**

Entry of appearance must be within the timeline stipulated in O 12 r 4 and O 110 r 6(3) of ROC. Any offshore case declaration that the Defendant wishes to rely on must be exhibited with the memorandum of appearance (O 110 r 35(3)(b) of ROC).



### **Defendant may apply to dispute jurisdiction of the SICC**

Application must be taken out pursuant to O 110 r 11(1) of ROC, read with O 12 r 7 of ROC, within the time limited for serving a Defence under O 18 r 2 of ROC.



**Action continues if challenge against jurisdiction is not made or is unsuccessful**



**Action terminates if challenge against jurisdiction of the SICC is successful**



### **Defendant files and serves Defence or Defence and Counterclaim on Plaintiff**

To be filed before the expiration of 14 days after the time limited for entering appearance or after the SOC is served on Defendant, whichever is later (O 18 r 2 of ROC).



### **Plaintiff files and serves Reply and (where applicable) Defence to Counterclaim on Defendant**

Reply and Defence to Counterclaim to be filed and served on Plaintiff before the expiration of 14 days after service of Defence and Counterclaim respectively (O 18 r 3 of ROC).



### **Filing of Case Management Bundle, Case Memorandum, List of Issues and Proposed Case Management Plan**

To be filed at least 7 working days before the first Case Management Conference.



### **First Case Management Conference**

Conducted generally within 2 weeks from close of pleadings or when pleadings are deemed to be closed. Directions for the progress of the matter, including trial dates for the action, to be given.



### **Production of documents by parties**

Parties to produce documents relevant and material to the trial in accordance with O 110 rr 14 – 17 of ROC.



### **Filing and exchange of Affidavits of Evidence-in-Chief**

To be filed and exchanged in accordance with the directions given by the SICC.



### **Filing of Pre-Trial Checklist and Draft Trial Timetable**

To be filed at least 7 working days before the Pre-Trial Case Management Conference.



### **Pre-Trial Case Management Conference**

Issues for trial and directions for trial preparation to be finalised.



**Trial**

## **ANNEX B - TYPICAL PROCEDURE OF AN SICC ACTION COMMENCED BY ORIGINATING SUMMONS**

### **Plaintiff files Originating Summons (OS) and supporting affidavit**

The OS must be accompanied by a plaintiff's declaration in accordance with O 110 r 4(4) and r 4(5) of the Rules of Court (ROC), unless the proceedings are proceedings under the International Arbitration Act (Cap 143A). Any offshore case declaration that the Plaintiff wishes to rely on must be exhibited in the declaration (O 110 r 35(3)(a) of ROC).



### **Plaintiff serves the OS and supporting affidavit on the Defendant**

Service to be effected in accordance with O 10 read with O 110 r 6 of ROC. Defendant is not required to enter an appearance in the SICC (O 12 r 9 of ROC).



### **Defendant may apply to dispute jurisdiction of SICC**

Application must be taken out pursuant to O 110 r 11(2) of ROC, read with O 28 r 2A of ROC, within 21 days after service of the OS and supporting affidavit on Defendant.



**Action continues if challenge against jurisdiction is not made or is unsuccessful**



**Action terminates if challenge against jurisdiction of the SICC is successful**



### **Defendant files reply affidavit**

As a general rule, reply affidavit to be filed and served within 21 days after Defendant is served with a copy of the Plaintiff's affidavit (O 28 r 3(3) of ROC). Any offshore case declaration that the Defendant wishes to rely on must be exhibited with the reply affidavit (O 110 r 35(3)(b) of ROC).



### **Case Management Conference**

If necessary, parties may request or be asked to attend a Case Management Conference for directions to be given in respect of the OS.



**Preparation for hearing and disposal of interlocutory applications (if any)**



**Hearing of the OS**

## **ANNEX C**

### **COURT FEES PAYABLE FOR PROCEEDINGS IN THE SICC**

	<i>Main action heard by single Judge</i>	<i>Main action heard by 3 Judges</i>	<i>Payable by whom</i>
1. Upon commencement of the action, entry of appearance to the action, a person being joined as a party to the action (including being joined as an additional plaintiff or defendant, or a third or subsequent party) or a defendant first filing a document in an action commenced by originating summons	\$3,300	\$4,950	(i) By the plaintiff upon filing an originating process (ii) By any other party upon filing of the first document by that party
2. Upon the first notification to the parties of a hearing for directions on case management (for writ actions only)	\$3,300	\$6,600	Each party
3. Upon certification of the exchange of affidavits of evidence-in-chief (for writ actions only)	\$2,750	\$6,050	Each party
4. Upon setting down the cause or matter for trial (for writ actions only)	\$1,100	\$2,750	Each party
5. For the filing of an interlocutory application (inclusive of the first half-day hearing)	\$3,500	\$10,500	The applicant, unless otherwise ordered by the Court

### **COURT FEES PAYABLE FOR APPEALS FROM THE SICC TO THE COURT OF APPEAL**

	<i>Single Judge Court of Appeal</i>	<i>2-Judge Court of Appeal</i>	<i>3-Judge Court of Appeal</i>	<i>5-Judge Court of Appeal</i>	<i>Payable by whom</i>
1. Upon filing of the Notice of Appeal or the Respondent's Case	N.A.	\$9,000	\$10,750	\$14,250	Each party
2. For the filing of an application (inclusive of the first half-day hearing)	\$3,500	\$7,000	\$10,500	\$17,500	The applicant, unless otherwise ordered by the Court of Appeal

**ANNEX D**

**HEARING FEES PAYABLE FOR PROCEEDINGS IN THE SICC**

	<i>Hearing by single Judge or by Registrar</i>	<i>Hearing by 3 Judges</i>	<i>Payable by whom</i>
1. For each day (or part thereof) of trial or the hearing of an originating summons	\$3,500	\$10,500	The plaintiff, unless otherwise ordered by the Court
2. For each day (or part thereof) of a hearing for the assessment of damages or taking of accounts	\$3,500	\$10,500	The plaintiff, unless otherwise ordered by the Court
3. For each additional half-day of interlocutory hearing or part thereof after the first half-day	\$1,750	\$5,250	The applicant, unless otherwise ordered by the Court

**HEARING FEES PAYABLE FOR APPEALS FROM THE SICC TO THE COURT OF APPEAL**

	<i>Single- Judge Court of Appeal</i>	<i>2-Judge Court of Appeal</i>	<i>3-Judge Court of Appeal</i>	<i>5-Judge Court of Appeal</i>	<i>Payable by whom</i>
1. For each day (or part thereof) of hearing of an appeal	N.A.	\$7,000	\$10,500	\$17,500	The appellant, unless otherwise ordered by the Court of Appeal
2. For each additional half-day of hearing of an application or part thereof after the first half-day	\$1,750	\$3,500	\$5,250	\$8,750	The applicant, unless otherwise ordered by the Court of Appeal