

IN THE SUPREME COURT OF THE REPUBLIC OF SINGAPORE

PRACTICE DIRECTION NO. 4 OF 2006

**APPLICATIONS UNDER THE MENTAL DISORDERS AND TREATMENT ACT
(CAP 178, 1985 REV ED)**

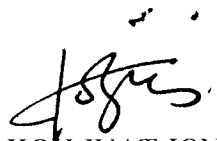
Applications made under the Mental Disorders and Treatment Act (Cap 178, 1985 Rev Ed) (“the Act”) for the appointment of a committee of a person alleged to be of unsound mind and incapable of managing his affairs are currently heard by a Judge in chambers. Some applications have been adjourned for a number of times because of non-compliance with the requirements of the Act.

2 In order to reduce the number of such adjournments, this practice direction introduces a new Part XX setting out directions on the requirements to be satisfied. Part XX also states that the application for an inquiry on the mental state of the person and the application to appoint a committee of the person will be dealt with by the court in one hearing, and not separately. A hearing date for the application will not be assigned in the event of non-compliance with the directions in Part XX.

3 This practice direction will take effect on 1 August 2006.

4 This practice direction should be included in *The Supreme Court Practice Directions (2006 Ed.)* immediately before the first page of the table of contents. Instructions for effecting the amendments to *The Supreme Court Practice Directions (2006 Ed.)* are contained in the Appendix hereto.

Dated this 17th day of July 2006.



KOH JUAT JONG
REGISTRAR
SUPREME COURT

APPENDIX

- 1) The attached page xixa to be inserted immediately after the existing page xix.
- 2) The attached pages PART XX - 1 to PART XX - 6 be inserted immediately after the existing page PART XIX - 6.

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**PART XX: APPLICATIONS UNDER THE MENTAL DISORDERS AND
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**PART XX: APPLICATIONS UNDER THE MENTAL DISORDERS AND
TREATMENT ACT**

143. Fixing of applications under the Mental Disorders and Treatment Act

- (1) Under s 3 of the Mental Disorders and Treatment Act (Cap 178, 1985 Rev Ed) (“the Act”), an application may be made for the court to order an inquiry as to whether any person alleged to be mentally disordered is or is not of unsound mind, and incapable of managing himself and his affairs. Upon finding that the person concerned is of unsound mind, and incapable of managing himself and his affairs, the court, under section 9 of the Act, may appoint a committee of the person and/or estate. The application for an inquiry on the mental state of a person and the appointment of a committee will be dealt with by the court in *one hearing*, and not separately. It will not be the practice to adjourn certain prayers in the application to a later date, save in exceptional cases or where the application is contested.
- (2) Counsel for the applicants must therefore ensure that they are ready for the hearing of all the prayers in their application at the time of filing their application, and that the directions in this part are complied with.
- (3) Hearing dates for such applications will not be assigned in the event of non-compliance with these directions.
- (4) The directions in this part merely set out general requirements for applications under the Act and should not be regarded as an exhaustive list of requirements. Counsel should also adapt these directions according to the particular facts of their case.

144. The originating summons

Title of originating summons

- (1) The originating summons should be entitled:
- In the Matter of the Mental Disorders and Treatment Act (Cap 178)
- And
- In the Matter of [*name of person alleged to be of unsound mind*] (NRIC No. ...) a person alleged to be of unsound mind
- And
- In the Matter of an application by [*name of applicant*] (NRIC No. ...)

Prayers for dispensation of service and attendance

- (2) In most applications, the person alleged to be of unsound mind will not be served with the application and will not appear at the hearing of the application. Similarly, the doctor whose medical evidence is being relied on is usually absent at the hearing. In such circumstances, the applicant should seek the following orders in the originating summons:
- (a) dispensation of service of the originating summons on the person alleged to be of unsound mind;
- (b) dispensation of attendance of the person alleged to be of unsound mind at the inquiry; and
- (c) dispensation of attendance of the doctor at the inquiry.

The Judge will decide whether dispensation should be granted on the facts of each case.

Standard prayers

- (3) The following standard prayers (varied as appropriate to each case) should be put into the originating summons:
- (a) that an inquiry be held as to whether the person alleged to be mentally disordered is or is not of unsound mind and incapable of managing himself and his affairs within the meaning of the Act;

- (b) that upon an inquiry being held, the person alleged to be mentally disordered is declared to be of unsound mind and incapable of managing himself and his affairs within the meaning of the Act;
 - (c) that the applicant(s) be appointed the Committee of the person and/or the estate of the person declared to be of unsound mind.
- (4) Other specific reliefs that are required on the particular facts of each case, such as orders under ss 10 and 15 of the Act, are to be included.
- (5) The powers sought for the committee of the person and/or estate of the person ought to be drafted appropriately to suit the purpose of each application.
- (6) Counsel should ensure that the originating summons, the supporting affidavit and the doctor's affidavit exhibiting the medical report are consistent as to whether the committee is to be of the person *or* the estate or *both* the person and the estate.

145. The supporting affidavit

- (1) According to s 4 of the Act, the application may be made by “any person who is related by blood or marriage to the person alleged to be mentally disordered, or by any public officer nominated by the Minister”. An applicant who is related to the person concerned should therefore state the nature of the relationship in the supporting affidavit.
- (2) Relevant documents, such as copies of birth certificates or marriage certificates, must be exhibited to support the averments in the affidavit. Originals of the exhibits must be made available for inspection by the court during the hearing, if required.
- (3) Where an order is sought under s 10 or s 15 of the Act, the affidavit should set out the necessary supporting facts. In particular, in an application to sell the residential property of the mentally disordered person under s 15 of the Act, the supporting affidavit should elaborate on why it is just or for the benefit of that person that a sale of the property is ordered, and where that person will be residing if the property were sold.
- (4) The supporting affidavit must include any other material information.

Consent of family members

- (5) Some applications may be contested by other family members of the person alleged to be mentally disordered. It is therefore necessary to state in the affidavit whether the person has any other family members. If any of the family members has consented to the application, his or her written consent (witnessed by an advocate and solicitor or commissioner for oaths) should be obtained, and the applicant should state those facts in the supporting affidavit as well as exhibit the relevant written consents of the family members. Where the consent of any of the family members is not obtained, the supporting affidavit should explain the lack of such consent.

146. Doctor's affidavit exhibiting medical report

Affidavit by doctor required

- (1) Under Order 40A, Rule 3 of the Rules of Court, expert evidence "is to be given in a written report signed by the expert and exhibited in an affidavit sworn to or affirmed by him testifying that the report exhibited is his and that he accepts full responsibility for the report". The doctor whose medical report is being relied on should affirm or swear to an affidavit and exhibit his or her medical report.

- (2) In addition, the doctor should indicate in the affidavit that he or she is aware that his or her report is being adduced for the purpose of obtaining a declaration that the person concerned is of unsound mind and incapable of managing himself and his affairs, and for the appointment of a committee under the Act.

The medical report

- (3) In order to assist the court, the medical report should:
 - (a) distinguish clearly between observations or conclusions based on information given to the doctor and those that are based on the doctor's examination of the person concerned;
 - (b) contain a clear opinion as to whether the person concerned is of unsound mind and incapable of managing himself and his affairs; and
 - (c) be current and should be made not more than 6 months before the date of the application.