

No. S 14

**SUPREME COURT ACT
(CHAPTER 5)**

RULES OF THE SUPREME COURT (AMENDMENT) RULES, 2017

ARRANGEMENT OF RULES

Rule

1. Citation
2. Amendment of Order 5 of R1 of Chapter 5
3. Amendment of Order 10
4. Amendment of Order 21
5. Amendment of Appendix A

SUPREME COURT ACT
(CHAPTER 5)

RULES OF THE SUPREME COURT (AMENDMENT) RULES, 2017

In exercise of the power conferred by section 12 of the Supreme Court Act, the Judges of the Supreme Court, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby make the following Rules –

Citation

1. These Rules may be cited as the Rules of the Supreme Court (Amendment) Rules, 2017.

Amendment of Order 5 of R1 of Chapter 5

2. Order 5 of the Rules of the Supreme Court, in these Rules referred to as the principal Rules, is amended by inserting the following new rule immediately after rule 1 –

“Proceedings in respect of action etc. discontinued

1A. No new proceeding shall be begun under this Order, in respect of an action, cause or matter which is deemed to have been discontinued under Order 21, rule 2(5) or (6).”.

Amendment of Order 10

3. Order 10 of the principal Rules is amended, in rule 1(4), by deleting “after service the person serving it indorses on it” from the second and third lines and by substituting “within 8 days after service the plaintiff files a memorandum of service in Form 10A containing” therefor.

Amendment of Order 21

4. Order 21 of the principal Rules is amended –

(a) in rule 2, by adding the following six new paragraphs –

“(5) An action begun by writ is deemed to have been discontinued against a defendant if the memorandum of service referred to in Order 10, rule 1(4) is not filed in respect of the service of the writ on that defendant within 6 months after the validity of the writ for the purpose of service has expired, and within that time –

(a) a memorandum of appearance has not been filed in the action by the defendant; and

(b) judgment has not been obtained in the action against that defendant in respect of the whole or any part of the relief claimed against that defendant in the action.

(6) Subject to paragraph (7), if no party to an action or cause or matter has, for more than one year (or such extended period as the Court may allow under paragraph (8)), taken any step or proceeding in the action, cause or matter that appears from records maintained by the Court, the action, cause or matter is deemed to have been discontinued.

(7) Paragraph (6) does not apply where the action, cause or matter has been stayed pursuant to an order of court.

(8) The Court may, on an application by any party made before the one year referred to in paragraph (6) has elapsed, extend the time to such extent it may think fit.

(9) Paragraph (6) applies to an action, cause or matter, whether it commenced before, on or after the date of commencement of the Rules of the Supreme Court (Amendment) Rules, 2017, but where the last proceeding in the action, cause or matter took place before 1st January 2017, the period of one year shall only begin on 1st January 2017.

(10) Where an action, cause or matter has been discontinued under paragraph (5) or (6), the Court may, on application, reinstate the action, cause or matter and allow it to proceed on such terms as it thinks just.

(11) For the avoidance of doubt, no new proceedings shall be begun under Order 5, in respect of an action, cause or matter which is deemed to have been discontinued under paragraph (5) or (6).”;

(b) in rule 4, by inserting “or is deemed to have discontinued” immediately after “discontinued” in the second line; and

(c) in rule 5, in paragraph (1), by inserting “or is deemed to have discontinued” immediately after “discontinued” in the first line.

Amendment of Appendix A

5. Appendix A to the principal Rules is amended by inserting the following new item –

BRUNEI DARUSSALAM GOVERNMENT GAZETTE

“No. 10A

MEMORANDUM OF SERVICE
(Title as in action)

O.10, R.1.

Date:

To: The Registrar.

The writ of summons hereon was served on —
Name of person served:

Capacity in which person is served: (The defendant)
(or as may be).

On: (Day, date and time of service).

At: (Place of service).

Method of service: (State how service affected).

(Issued by: (Solicitors for the).”.

Made this 30th. day of Jamadilawal, 1438 Hijriah corresponding to the
27th. day of February, 2017.

DATO SERI PADUKA HAJI KIFRAWI BIN
DATO PADUKA HAJI KIFLI
Chief Justice.