

THE SYARIAH COURT OF THE REPUBLIC OF SINGAPORE

REGISTRAR'S CIRCULAR NO 7 OF 2020

RECORDING OF CONSENT ORDERS
(PILOT PROJECT)

This Circular shall apply for a period of only 6 months starting from 15 March 2020.

Agreement at the time of filing

1. If an agreement on the children and the HDB matrimonial property has been reached at the time of filing the Originating Summons for divorce, the agreement may be reflected by filing the Agreed Parenting Plan (Form 11) and the Agreed Matrimonial Property Plan (for HDB flats) (Form 13 with Form 14), where applicable. Similarly, the Defendant may indicate his or her agreement by filing the Defendant's Agreement to Plaintiff's Proposed Parenting Plan (Form 20) and the Defendant's Agreement to Plaintiff's Proposed Matrimonial Property Plan (for HDB flats) (Form 22 with Form 14), where applicable.

2. If an agreement has been reached at the time of filing the Summons for any *inter partes* application, the Summons may be endorsed with the consent of the Respondent in the terms set out in paragraph 8 and signed in accordance with paragraph 7.

Agreement after filing

3. Parties who reach an agreement on all issues after filing an Originating Summons for divorce or a Summons for any *inter partes* application may, as the case may be, send a written request to the Court Registry pursuant to paragraphs 4 to 12 below for a date to record a consent order. The written request must be made at least 14 working days before the next Court event. Alternatively, the request may be made at a Pre-Trial Conference.

Written request to record consent order

4. The written request must be sent via email at MCCY_Syariah@mccy.gov.sg with the subject header "Request to Record Consent Order:" followed by the case reference number.

5. The Court will consider the written request and give written directions to parties, including fixing an early date (subject to availability) for mediation or hearing or vacating any Court event, as may be appropriate and expedient in the circumstances.

6. The written request to record a consent order must include the draft consent order signed in accordance with paragraph 7.

7. The draft consent order must be signed –

(a) in the case where both parties are represented, by both parties' counsel; and

(b) in the case where any party is unrepresented, by that party personally, except that the signature of that party in person must be witnessed by an advocate and solicitor or a commissioner for oaths not acting for any of the parties in the proceedings.

8. The following endorsement must be inserted on the draft consent order immediately before the signature of the unrepresented party:

"I acknowledge that I have considered the terms of the agreement and have also been informed of my right to seek independent legal advice."

9. Counsel for the other party must inform the unrepresented party in writing of his or her right to seek independent legal advice before signing the draft consent order.

10. Without limiting the Court's discretion, a consent order may be recorded without the Memorandum of Defence having been filed by the Defendant, provided that both parties are present at the mediation (where applicable) and at the recording of the consent order, if –

(a) The Defendant is in prison, has been served with the Originating Summons and Case Statement/Amended Case Statement, is present via video-conference and acts in person; or

(b) Both parties are represented by counsel, a draft consent order has been prepared by counsels and signed in accordance with paragraph 7(a), and both counsel, having filed their Notice of Appointment of Solicitors/Notice of Change of Solicitors, are present at the mediation (where applicable) and at the recording of the consent order.

11. Where the draft consent order involves any disposition or transfer of property (including an HDB flat), the parties must provide the following information in the written request to the Court, and may be required to do so by way of an affidavit:

(a) whether there is any third party interest in the property subject to disposition to transfer;

(b) whether the owner of the property is incapacitated by reason of insolvency from effecting a disposition or transfer of the property;


(c) whether the property is subject to any encumbrance which would affect a disposition or transfer thereof; and

(d) where Central Provident Fund (CPF) funds were utilised in the acquisition of the property, for each party, the CPF Board's Checklist for Consent Orders in the Annex to this Circular.

12. For the avoidance of doubt, the Court hearing the matter has the discretion whether or not to grant an order in terms of the draft consent order.

13. Court users and members of the public who wish to seek clarification on this matter may call 63548371 or email MCCY_Syariah@mccy.gov.sg. For general information on court processes and procedures, they may visit our website at www.syariahcourt.gov.sg

Dated this 13th day of February 2020


SHAHRINAH ABDOL SALAM
REGISTRAR
SYARIAH COURT



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

How to use this Checklist:

- * Please sign this Checklist if you or the other party are applying for a **consent order** dealing with changes in ownership (e.g. sale, transfer etc.)¹ of a property (“Property”) under section 52 of the Administration of Muslim Law Act, and Central Provident Fund (“CPF”) monies have been withdrawn from **any CPF account(s)** in respect of the Property.
- * However, you need not sign this Checklist if the consent order is for the property to be **transferred** (other than by way of sale) with **partial or no** CPF refunds.
- * The signed Checklist must be submitted to the Court at the same time as when you are submitting the draft consent order.

Important Notes:

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

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

² Please refer to:

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

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

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

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

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

<p>b) any amounts for which the Property is pledged (if applicable) in order to withdraw any Retirement Account savings; and</p> <p>c) that I have to share CPF information with the other party as required by the Syariah Court.</p>	
<p>5. I know that until the date of the <u>transaction leading to the change in ownership</u> of the Property:</p> <p>a) the amount of CPF moneys used for the Property may increase due to more CPF withdrawals being made;</p> <p>b) interest will continue to accrue until the <u>date of completion of the transaction leading to the change in ownership</u>; and</p> <p>c) there may be refunds from financiers if excess CPF moneys have been paid to them.</p> <p>As a result, the amount to be refunded may be different on the date of completion of the transaction leading to the change in ownership as compared to the amount calculated as at the date I signed this Checklist.</p>	<input type="checkbox"/>

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

I have read and I understand this Checklist.

Party's Signature

Name:

NRIC / Passport no.:

Date*: