

## **Royal Decree-Law issuing the Law on Sharia Court Procedures**

**We, Idris I, King of the United Kingdom of Libya,**

**Upon review of:**

- Article (38.15) and (64) of the Constitution;
- The Codes of Civil and Commercial Procedure and the laws on the justice system and the Federal Supreme Court;
- Based on the submission of the Minister of Justice and the approval of the Cabinet;

**decree the following:**

### **Article (1)**

This Law shall enter into force before the sharia courts, and any provisions that conflict with the provisions of this Law shall be repealed.

### **Article (2)**

The Minister of Justice shall implement this Law, and it shall come into force on the date of its publication in the Official Gazette.

**King Idris – Libya**

**Date published in the Official Gazette**

**Issued at Dar Al Salaam Palace on 3 Jumada al-Awwal 1378 AH**

**Corresponding to 15 November 1958 AD**

**By order of the King**

**Abdel Hamid Atieh Daibani**

**Minister of Justice**

**Abdul Majid Kabar**

**Prime Minister**

# Royal Decree-Law on the Law of Sharia Court Procedures

## Part (1)

### Litigation before the Courts

#### Chapter (1)

#### Subject-Matter and Territorial Jurisdiction

##### Article (1)

The court of first instance shall have jurisdiction to rule on all disputes that fall within the jurisdiction of the Sharia Courts.

Rulings issued thereby shall be a first instance ruling, with the exception of the following matters, where its ruling shall be final:

- a. Alimony and child support of all types, if the amount requested of each type is not more than one hundred fifty piastres a month, or if the ruling is not for more than such amount if the request was non-specific, on condition that the total amount ruled for or requested for the wife or for the child does not exceed three hundred piastres a month.
- b. Maintenance of relatives, if the amount requested is not more than one hundred fifty piastres a month, or if the ruling is not for more than such amount if the request was non-specific.
- c. Maintenance for the period prior to filing the case, if the total amount requested is not more than ten pounds, or if the ruling is not for more than such amount if the request was non-specific.
- d. The *mahr* and the *jihaz*, if the amount due to the plaintiff is not more than ten pounds and the value of the *mahr* and *jihaz* is not more than one hundred pounds.

Such is provided that there is not a dispute over the grounds of the right claimed.

##### Article (2)

The court of appeal shall have jurisdiction to rule on appeals filed before it on first-instance rulings issued by the court of first instance or a deputy judge.

##### Article (3)

Competence shall be held by the court in whose jurisdiction the defendant's domicile is located. If the defendant does not have a domicile in Libya, competence shall be held by the court in whose jurisdiction the defendant's residence is located. If there is more than one defendant, competence shall be held by the court in whose jurisdiction the domicile of one of the defendants is located.

##### Article (4)

If the case is filed by the wife, one of the parents, or person with custody, jurisdiction on the following matters shall be held by the court in whose district the defendant or plaintiff's domicile is located:

- a. Custody.
- b. Move of the child's custody-holder or guardian to another country.
- c. Custody or nursing costs, expenses, and housing costs.
- d. *Mahr*.

- e. *Jihaz*.
- f. Power of attorney for marital matters.
- g. Marriage and matters related to the wife not mentioned above.
- h. Divorce, *khula*, and divorce by mutual consent.
- i. Separation of the spouses under all sharia grounds.

#### **Article (5)**

Cases where the dispute is related to property shall be filed before the court in whose jurisdiction the property or a portion thereof is located, if it is located in the jurisdictions of multiple courts, or before the court in whose jurisdiction the defendant's domicile is located.

#### **Article (6)**

Cases related to an endowment asset shall be filed before the court in whose jurisdiction all or a portion of the waqf property is located, or before the court in whose district the defendant's domicile is located.

#### **Article (7)**

Certification of death and inheritance shall be before the court of first instance in whose area of jurisdiction all or a portion of the real property of the bequest is located or the court in whose area of jurisdiction the plaintiff's domicile is located.

#### **Article (8)**

If the defendant does not have a domicile or residence in Libya and the competent court cannot be determined under the above provisions, competence shall be held by the court in whose jurisdiction the plaintiff's domicile or residence is located. If the plaintiff does not have a domicile or residence, competence shall be held by the court in whose jurisdiction they are located at the time the case is filed.

#### **Article (9)**

Domicile is the location where a person usually resides. It is possible for a person to have more than one domicile at one time, and to not have a domicile.

### **Chapter (2) Filing Cases**

#### **Article (10)**

Cases shall be filed before the court pursuant to a statement deposited with its registrar, consisting of an original and a number of copies equal to the number of defendants, and including the following information:

- a. The date, including the day, month, year, and time of filing.
- b. The name, surname, profession or vocation, and domicile of the plaintiff, as well as the name, surname, profession, and domicile of their representative and whether they work for a third party.
- c. The name, surname, and profession or vocation of the defendant, and their domicile or last domicile, if they do not have a known domicile at the time of filing.
- d. State the court with whose registrar they wish to file the statement.

e. The facts and evidence of the case and the plaintiff's requests.

#### **Article (11)**

The court clerk shall confirm that the statement of claim contains the information provided in the preceding Article.

If the statement of claim is found to be incomplete, it shall be completed as much as possible by the applicant before the judge.

#### **Article (12)**

After completion of the information provided in Article (10), the competent clerk shall immediately mark the statement of claim as valid for submission. At that time the applicant shall pay the fees due in full and the competent employee shall indicate in the margin of the claim that the fees have been paid. The documents shall be immediately submitted to the judge to set a session to hear the case and notify the plaintiff of the date of the session set. The document shall then be registered on the same day in the general register under the form to be specified by a decree issued by the Minister of Justice. The plaintiff or representative thereof shall sign the register indicating knowledge of the session, and the original claim shall be marked with its serial number. On the same day, the registrar shall send the service form, with a copy of the statement of claim attached, to the administration or service department to serve notice to the defendant.

The service form shall be specified under a decree issued by the Minister of Justice.

If the plaintiff has received a decision from the competent body issuing an exemption from fees, this decision shall replace payment of fee in the application of the preceding paragraph.

#### **Article (13)**

The case shall be deemed filed upon its registration in the general registry. Upon registration, a file shall be opened for the case in which the original statement of claim and all the related documents shall be placed. A decree shall be issued by the Minister of Justice specifying the case file form.

#### **Article (14)**

If the plaintiff and defendant appear before the first instance judge on their own and request that their dispute be heard, the judge may hear it on the spot and issue a ruling thereon if possible, or set another session.

All information identifying the parties to the dispute and merits of the case in a diligent manner shall be written in the session minutes. The session clerk shall collect the case fees from the filer, and shall record such in the general registry from the information written in the session minutes.

#### **Article (15)**

The date for appearing before the first circuit or second circuit court shall be at least eight days.

In cases of necessity, the date may be reduced to three days, pursuant to a written order from the judge or circuit president, a copy of which shall be served to the party with the statement of claim.

### **Chapter (3)** **Presence and Absence of the Parties**

#### **Article (16)**

On the date set to hear the case, the parties shall appear in person or their representatives shall appear pursuant to a special or full power of attorney. The parties may not grant power of attorney to individuals who are not lawyers, except for those with whom they share a tie of kinship, wedlock, or kinship by marriage.

The representative must prove they have been granted power of attorney by the principal. To establish power of attorney, it shall be sufficient to submit a document of such signed by the tribal sheikh or locality mukhtar certified by the competent judge or deputy judge. The power of attorney may be given in the session by a statement recorded in the minutes, and at that time the statement shall serve as the signature certification.

#### **Article (17)**

Upon issuance of a power of attorney by one of the parties, the domicile of their representative shall be taken into consideration in serving the necessary papers for the case at the level of litigation authorised thereto, with the exception of the cases in which the law requires service be made to the party directly.

#### **Article (18)**

If the representative quits or is dismissed by the principal, such shall not obstruct the procedures against them unless the party announces the appointment of a replacement or the principal decides to pursue the case directly.

#### **Article (19)**

No judge or deputy judge of a civil or sharia court, member of a prosecution, or any employee of the bodies where such persons work may appear on behalf of or represent the parties in proceedings, whether oral, written, or in an advisory capacity, even if the case is filed before a court other than the court of body to which they are affiliated.

However they may do so for those for whom they are the legal representative, their wives, ascendants and descendants to the second degree.

#### **Article (20)**

If neither the plaintiff nor the defendant appear, or the defendant appears alone and refrains from answering, the court, after verifying proper service, shall rule to strike the case and the plaintiff shall be obliged to pay the fees. If the case remains as such for six months and the plaintiff does not request proceeding with the case, the case shall be deemed null and void.

#### **Article (21)**

If the defendant does not appear, the court may issue an *in absentia* ruling after verifying that they were properly served.

If the plaintiff is absent and the defendant appears, they may request a ruling to void the case.

#### **Article (22)**

If the plaintiff or defendant appears in any session, the litigation shall be deemed *in presentia* with regard thereto, even if they later fail to appear.

#### **Article (23)**

In a session where the other party is absent, neither party to the dispute may submit new requests or amend or increase the initial requests. Requests to void or dismiss the case shall not be deemed new requests.

#### **Article (24)**

The court may not issue a ruling with one of the parties absent until they have been called again at the end of the session.

#### **Article (25)**

Striking the case shall result in its removal from the sessions without consequence for the effects ensuing from its filing. Deeming it void shall result in the removal of the statement of claim and elimination of the ensuing effects.

### **Chapter (4)**

#### **Session Procedures and Order**

#### **Article (26)**

The court shall set dates for the exchange of documents and memoranda between the parties according to the circumstances of the case.

It may impose a fine of not more than five dinars on anyone who violates its decision.

#### **Article (27)**

Proceedings shall be public unless the court deems of its own accord or based on a request of one of the parties to conduct it privately in order to maintain public order or in observance of morals or the sanctity of the family.

#### **Article (28)**

In the cases where proceedings allow, the statements of the parties must be heard during proceedings and may not be interrupted unless they deviate from the subject of the case, violate order, insult one another, or challenge a right foreign to the dispute.

#### **Article (29)**

The parties may not request they be reheard after stating their answer a second time, unless the court finds cause for such. The defendant shall be the last to speak.

#### **Article (30)**

The parties may ask the court at any stage of the case that any agreements made thereby be recorded in the session minutes and signed thereby or by their representatives. If they have written what they agreed upon, such writing shall be appended to the session minutes and the contents thereof written therein. In both cases, the session minutes shall have the force and weight of a writ of execution. A copy thereof shall be given in accordance with the rules established for delivery of copies of rulings.

### **Article (31)**

Control and management of the session shall be entrusted to the president of the session. In doing such, the president may remove from the courtroom anyone who violates order. If they do not comply and continue, the court may rule immediately to imprison them for twenty-four hours or to impose a fine of one dinar. Such ruling may not be appealed.

### **Article (32)**

The court may, of its own accord, order that offensive expressions or violations of morals or public order be struck from any page of the proceedings or memoranda.

### **Article (33)**

The president of the session shall order a report be written on every offence occurring while in session and the investigation procedures he decides to adopt. If the offence is a felony or misdemeanour, the judge may, if necessary, order the arrest of the perpetrator and refer them to the public prosecution.

### **Article (34)**

The court may try anyone who commits a misdemeanour against the court, one of its members, or an employee of the court while it is in session and sentence them immediately.

### **Article (35)**

With the exception of Articles (31) and (34), if the infringement or violation of order of the session is committed by a lawyer while and due to performing their duty, the court shall draft a report on such.

The court may decide to refer the lawyer to the investigating authorities for investigation if their act requires they be held criminally accountable, and to the court president if their act requires they be disciplined.

### **Article (36)**

If the court does not issue its ruling in the session as mentioned in Article (34) or if the offence is a felony, it shall order the arrest of the perpetrator and their referral to the public prosecution.

## **Chapter (5)** **Motions**

### **Article (37)**

Motions that may be made prior to consideration of the merits of the case are:

- a. Motion that the court does not hold jurisdiction to review the case.
- b. Motion to request referral of the case to another court.
- c. Motion to invalidate the case.

These motions shall be ruled on independently unless the court orders to join them to the merits, and at that time shall state its ruling on each individually.

### **Article (38)**

A motion for lack of subject-matter or territorial jurisdiction is not related to public order. Such motion may only be made in the first session when the case is heard in a first instance court and before speaking about the merits.

If the motion is made by the above-mentioned deadline and the court finds that it is in place, it must rule to refer the case in its present state to the competent court without fees and set a session for its review before such court.

It may at that time rule to fine the plaintiff not more than five dinars and thirty dinars, all or a portion of which shall be granted to the other party as compensation.

### **Article (39)**

If a motion is made to refer the case to another court due to the same dispute having been submitted before it, the court shall refer this motion within a short time to the court before which the dispute was first filed to rule on this motion as an urgent matter, provided it is not found from the circumstances of the case that it was intended to deceive.

### **Article (40)**

If a motion is made to refer the case to another court due to its connection to another case under consideration before it, the court to which the motion was submitted must rule on the motion as an urgent matter.

### **Article (41)**

In the preceding cases, whenever a court rules for referral, the court shall set a session for the parties to appear before the court to which the case was referred. The registrar shall notify the absent parties of such by registered letter.

### **Article (42)**

A procedure shall be invalid if the law stipulates that it is invalid, or if there is a substantive flaw causing harm to a party. In the last case, the ruling to invalidate the procedure shall be permissible for the court, unless the matter relates to public order.

## **Chapter (6)**

### **Joinder, Intervention, and Interlocutory Motions**

### **Article (43)**

A party may join to the case anyone who may properly be litigated against when the case is filed. The usual conditions shall be followed in litigating against a third party as in filing the initial case.

### **Article (44)**

The court may, of its own accord, order the joinder of anyone it deems necessary to litigate against in the case in order for it to proceed properly.

### **Article (45)**

All interested parties may intervene in the case, together with one of the parties or seeking a ruling for themselves on a request related to the case.



Such shall be either under a statement submitted pursuant to the procedures set out in Articles (10), (11), and (12), or by a request submitted orally in the session in the presence of the parties and written in the minutes thereof.

Intervention shall not be accepted after closure of proceedings in the case.

#### **Article (46)**

Interlocutory motions shall be submitted by the plaintiff or the defendant to the court either under a statement submitted pursuant to the procedures set out in Articles (10), (11), and (12), or made orally in the session in the presence of the parties and written in the minutes thereof.

The submission of interlocutory motions shall not be accepted after closure of proceedings in the case.

#### **Article (47)**

The court shall rule on each dispute related to the acceptance of interlocutory motions or intervention. Its ruling shall only be subject to appeal if issued to accept a third party, provided that on appeal they are in the original case.

#### **Article (48)**

The rules of subject-matter and territorial jurisdiction may be violated when interlocutory matters are filed before courts of first instance.

### **Chapter (7)**

#### **Evidentiary Procedures**

##### **Section (1) – General Provisions**

#### **Article (49)**

The facts to be proven must be admissible and related to the case.

#### **Article (50)**

If the court is formed of more than one judge, it may undertake evidentiary procedures itself or assign one of its members for such.

#### **Article (51)**

If the place where an evidentiary procedure must be conducted is far from the courthouse, the court may assign a judge or deputy judge in whose area of jurisdiction the place is located to conduct such.

#### **Article (52)**

The text of rulings issued on evidentiary procedures must be served to any party who did not attend the pronouncement of the ruling. Orders issued specifying the date evidentiary procedures are to be conducted must be served, otherwise they shall be deemed invalid.

In all cases, service shall be by registrar request within two days and performed in the manner specified by the judge or by registered letter.

### **Article (53)**

Whenever the completion of a procedure requires more than one session or more than one day, the day and hour to which they were adjourned must be stated in the minutes. It is not necessary to inform an absent party of this adjournment.

### **Article (54)**

Interlocutory matters related to evidentiary procedures shall be submitted to the assigned judge. Any not submitted thereto may not be submitted to the court when hearing the merits of the case. Decisions issued on said interlocutory matters shall be enforceable and the parties may resubmit them to the court when hearing the case, unless the law provides otherwise.

### **Article (55)**

In addition to the right to amend or cancel the evidentiary procedures it has ordered, the court may decide not to take into consideration the outcome of the procedure, provided it states the grounds for such in its ruling.

### **Article (56)**

Decisions issued by Libyan courts on behalf of foreign authorities to conduct investigation procedures shall be sent by diplomatic channels. If dealing with Libyan citizens residing abroad, the court shall assign the competent Libyan consular body for such.

### **Article (57)**

If the parties do not appear on the day set to commence or continue evidentiary procedures, the court shall rule to extinguish the right to such.

If the party who requested the evidentiary procedures or continuation thereof does not appear, the court may, at the request of the party present, rule to extinguish the right of the absent party. In the following session, the concerned party may request cancellation of the judge's order to extinguish their right to request evidentiary procedures and the court may issue an order to cancel the decision if it finds that the failure to appear was for serious reasons.

### **Article (58)**

If evidentiary procedures are completed or it is decided to extinguish the right thereto and there are no other evidentiary methods or the court finds that there is no merit in continuing them due to the result reached, the court shall decide to end the procedures.

### **Article (59)**

When necessary, the court of appeal may order of its own accord to renew the evidentiary methods it deems fit in cases under consideration before it.

### **Article (60)**

The court may question any of the parties present, and each of the parties may request to question the other party present.

#### **Article (61)**

The court may also order a party to appear for questioning, whether of its own accord or at the request of the other party.

Anyone who is to be questioned shall appear personally at the session set in the decision.

#### **Article (62)**

If the court finds that the case does not necessitate questioning, it shall reject the request to question.

#### **Article (63)**

The president shall ask the questions that he deems fit of the party, and shall also ask said party the questions the other party requests be asked. Answers shall be given in the same session, unless the court decides to grant a period of time for providing an answer.

#### **Article (64)**

Answers shall be given before the party who requested questioning, but the questioning shall not depend upon the presence thereof.

#### **Article (65)**

Questions and answers shall be recorded precisely and in detail in the session minutes. After such is read aloud it shall be signed by the president, clerk, and party questioned. If the questioned party refuses to answer or sign, their refusal and the reasons therefor shall be stated in the minutes.

#### **Article (66)**

If a party has an excuse preventing them from appearing in person, the court may assign one of its judges to appear at their residence to question them as mentioned.

#### **Article (67)**

If a party fails to appear for questioning without an acceptable excuse or refuses to answer without a legal excuse, the court may deem the facts they are being questioned about to be established.

### **Section (3) Assertory Oaths**

#### **Article (68)**

If a party is incompetent or incapacitated, their representative may be questioned, and the court may speak with the party themselves if they are discerning.

For legal entities, questions may be directed to their legal representatives.

#### **Article (69)**

Anyone who requests that the other party take an oath must state precisely the incidents they wish to obtain an oath on and state the wording of the oath using clear and straightforward language.

#### **Article (70)**

The court may amend the wording of the oath submitted by the party to make it address the incident on which the oath is requested clearly and precisely.

#### **Article (71)**

If the party from whom the oath is requested does not contest either the permissibility of such or its relation to the case, they must, if present in person, swear or repeat the oath to the other party immediately, or it shall be deemed withdrawn. The court may grant a deadline for swearing the oath if it finds grounds for such. If not present, the party must be tasked to appear by a process server or the administration in order to swear the oath in the wording approved by the court on the day it sets for such. If the party appears and refuses without contesting such or fails to appear without excuse it shall also be deemed withdrawn.

#### **Article (72)**

If the party asked to swear an oath contests the permissibility of such or its relation to the case and the court rejects their challenge and orders them to swear the oath, the wording of the oath shall be stated in the text of the ruling. This text shall be served to the party if they were not present in person and the provision of the preceding Article shall be followed.

#### **Article (73)**

If the party asked to swear an oath has an excuse preventing them from appearing, the court shall go to or assign one of its judges to administer the oath.

#### **Article (74)**

The oath shall be sworn with the oath-taker saying "I swear" and stating the wording approved by the court.

#### **Article (75)**

The person assigned to swear the oath may swear it according to the conditions established in their religion, if requested.

#### **Article (76)**

For mute individuals, swearing or repeating an oath shall be by their customary gestures if the individual does not know how to write. If they do know how to write, the oath shall be sworn and repeated in writing.

#### **Article (77)**

Power of attorney may not be granted to swear oaths.  
A representative in a dispute may only request an assertory oath from the other party under a special power of attorney.

#### **Article (78)**

A report on swearing an oath shall be drawn up and signed by the oath-taker, the court president, the assigned judge, and the clerk.

## **Section (4)**

### **Court Inspections**

#### **Article (79)**

The court may, of its own accord or at the request of one of the parties, decide to go inspect the subject of a dispute.

The court shall draw up a report stating all of the activities related to the inspection, otherwise the act shall be deemed invalid.

#### **Article (80)**

When it goes, the court may appoint an expert to assist with the inspection, and it may hear the statements of the witnesses it decides to hear. Such persons shall be called to appear by request, even verbally, from the court clerk.

#### **Article (81)**

Anyone concerned about the loss of the features of an incident that might become subject to a dispute before the courts may request before the concerned parties by the usual routes that the court holding competence to hear the merits of the case go for an inspection if possible. In this case, the provisions set out in the two preceding Articles shall be observed.

#### **Article (82)**

In the case set out in the preceding Article, the court may assign an expert to go, inspect, and hear witnesses not under oath. If the concerned parties do not attend the inspection or did not know about the assignment, the court shall designate a session to hear the observations of the parties on the expert's report and activities. The rules set out in the section on experts shall be followed.

## **Section (5)**

### **Witness Testimony**

#### **Article (83)**

The party that seeks to establish evidence with witness testimony shall state the facts they wish to establish and the names of the witnesses they wish to hear, along with the circumstances that prompted them to call each one.

The other party shall in turn state, in their first response thereto, the names of the witnesses they wish to hear to prove otherwise, even if they object to establishing evidence with testimony.

When necessary, the court shall set a date for the parties to state the above.

#### **Article (84)**

In decisions issued to accept an evidentiary measure, the court shall order that any unnecessary witnesses and witnesses that the law does not permit be heard be removed from the witness list.

#### **Article (85)**

If a witness fails to appear after being properly served, the court or assigned judge shall rule to fine them one hundred piastres. Such ruling shall be written in the minutes and shall not

be subject to appeal. In cases of utmost urgency, the court or assigned judge may issue an order to have the witness brought before the court.

In other cases, an order shall be issued to task the witness to appear again, if required, and the witness shall bear the expenses of such. If they fail to appear, they shall be fined twice the amount of the mentioned fine and the court or assigned judge may issue an order to have them brought before the court.

The fine against the witness may be cancelled if they appear and provide an acceptable excuse.

#### **Article (86)**

If it is not possible for a witness to appear, the court shall go to the place where they are located.

#### **Article (87)**

Witnesses shall be sworn in using the wording approved by the court, otherwise their testimony shall be invalid.

#### **Article (88)**

If a witness who appears refuses to give testimony or be sworn in without an acceptable excuse, or if the court doubts the veracity of their testimony or that they have stated everything they know, the court may draw up a report on such and refer it to the public prosecution or order the arrest of the witness if it finds grounds for such.

#### **Article (89)**

Employees, workers, and those tasked with a public service shall not testify, even after they have left their jobs, about any information they learned of while performing their job that was not spread by legal means or the broadcast thereof was not authorised by the competent authorities. However, such authorities may authorise them to testify at the request of the court or one of the parties.

#### **Article (90)**

Any lawyers, representatives, doctors, or others who, through their profession or trade, learn of an incident or of information may not disclose such, even after their service or capacity has ended, unless their intent in not mentioning it is only to commit a felony or misdemeanour.

#### **Article (91)**

With the exception of the preceding Article, the persons mentioned therein must give testimony on that incident or information when such is requested of them by their families, provided such not violate the laws relevant thereto.

#### **Article (92)**

Each witness shall give their testimony separately, without the presence of the remaining witnesses who have not yet testified.

#### **Article (93)**

Witnesses shall be asked questions by the court or the assigned judge.

Witnesses shall first answer the questions of the party that called them, then the questions of the other party, without any of the parties interrupting the the other or the witness while testimony is being given.

#### **Article (94)**

The court may directly ask a witness any questions it deems useful in uncovering the truth.

#### **Article (95)**

Testimony shall be given orally. Written notes may not be used except with permission from the court or assigned judge, where warranted by the nature of the case.

#### **Article (96)**

Witness answers shall be written in the minutes then read aloud to the witness and signed thereby after correction of anything they believe requires correction. If they refuse to sign, this and the reasons therefor shall be mentioned in the minutes.

#### **Article (97)**

Witness expenses shall be assessed at their request and a copy of the assessment order shall be given to the witness, which shall be enforceable against the party that summoned them.

#### **Article (98)**

The report on questioning shall include the following information:

1. Day, location, and hour questioning was started and completed, listing the sessions it took.
2. Names and surnames of the parties, mentioning whether they were present or absent and listing their requests.
3. Name, surname, trade, and domicile of each witness, mentioning whether they were present or absent and the orders issued with regard thereto.
4. The statements made by the witnesses, mentioning the administration of the oath thereto.
5. The questions asked of them, who asked the questions, the interlocutory matters that arose from such, and the text of the witness' answer to each question.
6. The witness' signature on their answer, after writing that it was read aloud and their observations thereon.
7. The decision on witness expenses, if requested.
8. Signature of the circuit president or assigned judge and the clerk.

#### **Article (99)**

If a witness indicates that other people know the truth, the court may order such persons appear to testify.

The court may also issue an order to hear the testimony of witnesses whose testimony was deemed redundant or that it agreed to release from testifying and order that a previously questioned witness be re-questioned in order to clarify their statements or correct any errors in the previous testimony.

### **Article (100)**

Anyone who is concerned about missing the opportunity to call someone as a witness on a matter that has not yet been submitted to the court but might be submitted thereto may ask the concerned parties to hear that witness, if possible. This request shall be submitted to the court holding competence to hear the matter. All expenses shall be the responsibility of the party making the request.

When the incident is one wherein evidence may be established by witness testimony and after confirming the necessity of such, the court shall issue an order to hear the witness and that all parties be informed thereof.

### **Article (101)**

In the case set out in the preceding Article, a copy of the investigation report may not be delivered or submitted to the court unless the trial court decided upon review thereof that the incident may be proven by witness testimony. The other party may object to the acceptance of this proof before it and may request hearing rebuttal witnesses on their behalf.

### **Section (6) Experts**

#### **Article (102)**

The provisions set out in the Royal Decree issued on 24 July 1956 regulating judicial experts shall apply to the sharia courts.

#### **Article (103)**

When technical evidence is required, the court may order, on its own accord or at the request of one of the parties, the appointment of one or three experts selected from among those accepted before it and shall set a deadline for filing the written report. The court shall state in the appointment order that the party or parties must deposit a security for the expert expenses at the court treasury.

If an unregistered expert is appointed, the court shall set a date for the session in which the expert must swear an oath to perform their job faithfully and truthfully.

If it is a simple matter, the court may allow the expert to give their opinion orally.

The court clerk shall notify the expert and the parties of the order.

#### **Article (104)**

The expert may refrain from giving their opinion for one of the reasons contained in Article (160). In this case, they shall submit the order to the court that appointed them, within three days from being notified of the appointment.

With the the same period, the parties shall state the reasons for their rejection of the expert to the same court and the court shall issue an order thereon that is not subject to appeal.

#### **Article (105)**

The expert may request any clarifications from the parties, accept any information from third parties, and may also consult maps and guides.

The parties may be present at the expert operations, in person or through a lawyer, and may make any observations or requests to the expert, in writing or orally.



If the expert does not file their report within the set period for sound reasons, the court may, at the expert's request, grant a one-time extension not to exceed half of the period set.

#### **Article (106)**

At any time, the court may order to renew the search and may, if there are serious grounds, replace the expert with another. In all cases, the court shall not be bound by an expert opinion.

#### **Article (107)**

Experts shall not be owed fees or expenses if it is decided to withdraw their report for failure to observe the provisions of this Law or if they are tasked to complete a work that the court finds to be lacking due to their negligence, oversight, or ignorance. Experts shall also not be owed a fee for the clarifications the court calls them to provide orally on ambiguous points in their report.

#### **Article (108)**

An expert's fees and expenses shall be determined by an order issued by the court that appointed them.

This order shall be deemed a writ of execution against the party ordered to pay the expenses. Fees shall be determined relative to the difficulty and term of the expert's assignment and the nature of the materials handled in the study.

#### **Section (7)**

#### **Written Substantiation**

#### **Article (109)**

The expert and each party to the case may challenge the assessment issued in the order referred to in the preceding Article. Challenges shall be made pursuant to a report at the registrar of the court that issued the ruling, within the eight days following service of the order. The registrar shall determine the day the challenge is heard before the court. The parties shall be notified of such five days prior to the date set. The ruling issued on this challenge shall be final.

#### **Article (110)**

A party may request that the other party be obliged to submit any document they have that is relevant to the case, in the following cases:

1. If demanding the submission or surrender thereof is permitted by law.
2. If it was shared between them and the other party. Specifically, a document shall be deemed shared if it was drafted for the parties or establishes their mutual rights and obligations.
3. If the other party relied on it at any stage of the case.

#### **Article (111)**

The request referred to in the preceding Article must state:

1. Descriptions of the document that identify it.
2. The document's content, with as much detail as possible.

3. The incident that it attests to.
4. The evidence and circumstances that support that it is in the other party's possession.
5. Grounds for obliging the party to submit it.

#### **Article (112)**

Requests for the submission of documents shall not be accepted if the provisions of the two preceding Articles are not observed.

#### **Article (113)**

If the petitioner establishes their request or the party declares that the document is in their possession or remains silent, the court shall rule the document be submitted immediately or at the nearest date set thereby.

If the other party denies such and the petitioner does not submit sufficient proof of the validity of the claim, the party making the denial must swear under oath that they do not have the document and do not know where it is or its location and that it did not hide it or were negligent in searching for it in order to prevent the other party from using it as evidence.

#### **Article (114)**

If the party does not submit the document by the deadline set by the court, or refuses to swear said oath, the copy of the document submitted by the other party shall be deemed a valid true copy. If the other party did not submit a copy of the document, it is permissible to accept what it says with regard to the form or content thereof.

#### **Article (115)**

If the party submits a document to use as evidence in the case, they may not withdraw it without the agreement of the other party, except by written order from the judge or president of the circuit, after it is stamped with the court stamp and a notation made thereon stating that it was submitted in the case.

#### **Article (116)**

During the course of the case, even before the court of appeal, the court may authorise the joinder of a third party to oblige them to submit a document in their possession, in those cases and in observation of the provisions and conditions set out in the preceding Articles. It may also request that the administrative bodies submit, in writing, the information and documentation they have that is necessary for the case to proceed, provided the submission of such does not violate the public interest.

#### **Article (117)**

The court may assess the material flaws in the document resulting from erasure, strikeout, annotations, and the like which reduce or diminish its value as evidence.

If, in the view of the court, the validity of the document is in question, it may, of its own accord, call the employee that issued it or the person who drafted it to provide clarification on the truth of the matter therein.

### **Article (118)**

Denial of handwriting, stamps, signatures, or fingerprints shall only be permissible for unofficial documents. Allegations of forgery is permissible for all documents, official and unofficial.

### **Article (119)**

Official documents are those wherein a public employee or person charged with a public service records what they did or what they received from the concerned party, in accordance with the legal conditions and within the limits of their authority and competencies.

Official documents are proof for all people of the matters recorded therein performed by the drafter thereof, within the limits of their duty or signed by the concerned party in their presence, unless they are found through legally established means to be forged.

### **Sub-Section (1): Denial of Handwriting, Signatures, Stamps, or Fingerprints and Verification of Handwriting**

### **Article (120)**

If a party appearing on a document denies their handwriting, signature, stamp, or fingerprint or if their successor or representative denies such and the document is relevant to the dispute and the facts and documents of the case are not sufficient to form the court's belief with regard to the validity of the handwriting, signature, stamp, or fingerprint, the court shall order verification by comparison or by hearing witnesses or by both measures.

### **Article (121)**

A report shall be drawn up sufficiently stating the state and description of the document and signed by the president of the session, the court clerk, and the parties. The president of the session and the clerk must sign the same paper.

### **Article (122)**

The text of the verification order issued shall include:

1. The appointment of one expert or three experts.
2. Specification of the day and hour that the investigation will take place.
3. The order to deposit the document being verified with the registrar after describing it as set out in the preceding Article.

### **Article (123)**

The registrar shall assign the expert to appear before the judge on the day and hour set for the beginning of the verification.

### **Article (124)**

The parties shall appear on said date to submit the documents they have for comparison and to agree on the ones suitable for such. If the party tasked to establish proof fails to appear without an excuse, a ruling may be issued extinguishing their right to establish proof. If the other party fails to appear, the documents submitted for comparison may be deemed valid therefor.

#### **Article (125)**

The party that disputes the validity of the document shall appear in person to be asked to perform a dictation on the date set by the judge. If they fail to appear without an acceptable excuse, a ruling may be issued to deem the document valid.

#### **Article (126)**

The comparison of handwriting, signatures, stamps, or fingerprints that have been denied shall be against the established handwriting, signature, stamp, or fingerprint of the party appearing on the document.

#### **Article (127)**

If the parties fail to agree, only the following may be used for the comparison:

1. Handwriting, signatures, stamps, or fingerprints on official documents.
2. The portion of the document being verified that the party acknowledges as valid.
3. The handwriting or signature that they write or the fingerprint that they provide in front of the judge.

#### **Article (128)**

The judge may order that the official documents to be compared be brought from the body where they are or go with the expert to their location to review them without moving them.

#### **Article (129)**

If official documents are submitted to the registrar, the copies made thereof shall serve as the original when signed by the judge, the clerk, and the employee who received the original. When the original is returned to its place, the copy made thereof shall be returned to the registrar and voided.

#### **Article (130)**

The expert, parties, judge, and clerk shall sign the documents for comparison prior to beginning the verification, and such shall be mentioned in the minutes.

#### **Article (131)**

With regard to experts, the rules provided in the section on experts shall be observed.

#### **Article (132)**

Witness testimony shall not be heard other than as relates to establishing that writing, signature, stamps, or fingerprints on the document being verified was performed by the party attributed thereto.

In this case, the rules provided in the section on witness testimony shall be observed.

#### **Article (133)**

If an entire document is ruled to be valid, a ruling shall be issued to fine the party that denied such between four dinars and fifteen dinars.

#### **Article (134)**

If the court rules to accept or reject the validity of a document or rules to extinguish the right to establish the veracity thereof, it shall start hearing the merits of the case immediately or set the nearest session for review thereof.

#### **Article (135)**

Anyone who has an unofficial document may litigate against the party appearing on such document to acknowledge that it is their handwriting, signature, stamp, or fingerprint, even if the obligation contained therein does not merit this. Such shall be in an original case under the usual procedures.

#### **Article (136)**

If the defendant appears and acknowledges, the court shall record their acknowledgement and all expenses shall be the responsibility of the plaintiff. The document shall be deemed to be acknowledged if the defendant remains silent, does not deny it, or does not attribute it to someone else.

#### **Article (137)**

If the defendant does not appear, the court shall issue an *in absentia* ruling to accept the veracity of the handwriting, signature, stamp, or fingerprint. This ruling may be appealed in all cases.

#### **Article (138)**

If the defendant denies handwriting, a signature, stamp, or fingerprint, verification shall take place in accordance with the rules above.

### **Sub-Section (2): Allegations of Forgery**

#### **Article (139)**

Allegations of forgery at any stage of the case shall be pursuant to a report at the registrar. This report shall identify every point of alleged forgery. As soon as an allegation of forgery is made, the registrar shall notify the public prosecution.

Within the eight days following such report, the party alleging forgery must serve the other party with a memorandum stating the evidence of forgery and the verification procedures they are requesting in order to establish such, otherwise a ruling may be issued to extinguish their claim.

#### **Article (140)**

The party alleging forgery shall submit to the registrar the challenged document, if they have it, or the copy served thereto. If the court or clerk has the document they must deposit it with the registrar.

#### **Article (141)**

If the other party has the document, the president of the session may, after reviewing the report, immediately assign a process-server or member of the administration to collect or seize such document and deposit it with the registrar.

If the other party refuses to surrender the document and it is not possible to seize it, it shall be deemed non-existent. This shall not bar the seizure thereof later, if possible.

#### **Article (142)**

If the allegation of forgery is relevant to the dispute and the facts and documents of the case are not sufficient to convince the court of the veracity or forgery of the document and the court finds that the verification procedure requested by the challenger in their memorandum is relevant and permissible, it shall order verification.

#### **Article (143)**

Verification rulings shall include a statement of the facts that the court accepted for verification, the procedures it deems necessary to establish such, and all of the information mentioned in Article (122).

#### **Article (144)**

Verification shall take place by comparison, in accordance with the provisions set out in the preceding Sub-Section.

Verification by witness testimony shall take place in accordance with the rules provided therefor.

#### **Article (145)**

Pursuant to Article (142), a verification ruling shall suspend the validity of the document for enforcement, without violation of protective measures.

#### **Article (146)**

If a ruling is issued to extinguish or dismiss the party alleging forgery's claim, they shall be fined the amount of twenty-five dinars.

No fine shall be imposed if a portion of their claim was established.

#### **Article (147)**

The party alleging forgery may end the claim procedures at any stage by dropping their submission of the challenged document.

In this case, the court may order the document be seized or retained, if the party alleging forgery requests such for a legitimate interest.

#### **Article (148)**

Even if an allegation of forgery is not made under the above procedures, the court may rule to reject and invalidate any document if it clearly appears from its state or the circumstances of the case to be forged. In this case, the court must state the conditions and evidence indicating such in its ruling.

### **Chapter (8)**

#### **Discontinuation and Withdrawal of Litigation**

#### **Article (149)**

By law, litigation shall be discontinued with the death of one of the parties, if one of the parties loses their litigation capacity, or if the capacity of a representative who was

conducting the litigation on behalf of a party is terminated, unless the case is ready for a ruling on its merits.

#### **Article (150)**

If one of the above grounds for discontinuation occurs and the case is ready for a ruling on its merits, the court may rule pursuant to the statements and final requests or postpone such at the request of a party acting on behalf of the party who died, lost litigation capacity, or whose capacity was terminated, or at the request of another party.

#### **Article (151)**

The case shall be deemed ready for ruling on its merits when the parties have submitted their statements and final requests in the session prior to the death, loss of litigation capacity, or termination of capacity.

#### **Article (152)**

Discontinuation of the litigation shall result in the suspension of all proceeding dates that were in place for the parties and invalidation of all procedures that take place while the case is discontinued.

#### **Article (153)**

The case shall resume pursuant to a summons to appear served to the party acting on behalf of the party who died, lost litigation capacity, or whose capacity was terminated, at the request of the other party, or by a summons served to this party.

The case shall also resume if the heir of the deceased or the person acting on behalf of the party who lost litigation capacity or whose capacity was terminated attends the session set for the case and commences proceedings.

#### **Article (154)**

Litigation shall not be discontinued if a representative in the case dies or their power of attorney is relinquished or withdrawn. The court may grant an appropriate deadline to the party whose representative died or whose power of attorney was terminated if they have started to appoint a new representative within the fifteen days following the lapse of the first power of attorney.

#### **Article (155)**

If the case does not proceed due to the act or abstention of the plaintiff, any interested party may request a ruling to withdraw the litigation when one year has passed from the last valid litigation procedure.

#### **Article (156)**

In cases of discontinuation, the term for withdrawing the litigation shall commence only from the date that the party requesting a ruling to withdraw the litigation served notice to the heirs of the party who died or to the person acting on behalf of the party who lost litigation capacity or whose capacity was terminated of the existence of the case between it and the original opponent.

### **Article (157)**

Requests for ruling to withdraw litigation shall be submitted to the court before which the litigation sought to be withdrawn was filed, under the usual conditions for filing cases. This request may be submitted as a motion, if the plaintiff expedites their case after the passage of a year.

The request shall be submitted against all plaintiffs or appellants or shall be dismissed. If submitted by one of the parties, the others shall benefit therefrom.

### **Article (158)**

A ruling to withdraw litigation shall result in the lapse of the rulings issued thereon for evidentiary procedures and the cancellation of all litigation procedures, including the statement of claim. However, it shall not result in extinguishing the right in the original case or the peremptory rulings issued thereon, even if issued *in absentia*, the procedures preceding these rulings, or the declarations made by the parties or the oaths they swore.

Such withdrawal shall not prevent the parties from maintaining the verification procedures and expert activities performed, unless invalid in and of themselves.

### **Article (159)**

When a ruling is issued to withdraw litigation at the appeals level, the appealed ruling shall be deemed terminal in all cases.

When a ruling is issued to withdraw litigation where a petition for a retrial has been made before the issuance of a ruling to accept the petition, the petition itself shall be withdrawn. When such occurs after the issuance of a ruling to accept the petition, the above rules on appeal or the first circuit shall apply, as the case may be.

## **Chapter (9) Recusal and Removal of Judges**

### **Article (160)**

Judges shall recuse themselves from reviewing a case and refrain from hearing it in the following cases:

1. If they have an interest in the case or in another case centred on the exact same legal issues.
2. If they, their wife, one of their relatives to the fourth degree, or someone they habitually live or eat with is a party to the litigation or defence.
3. If they or their wife have with one of the parties or one of the representatives thereof an existing dispute, strong animosity, or relationship of indebtedness.
4. If they have given a legal opinion, pleading, or given testimony in the case, if they have previously heard the case as a judge at another stage, or if they were an expert, arbitrator, or inspector therein.
5. If they are a guardian, custodian, representative, or employer of one of the parties, or if they are a director of an institution or company, even if not recognised, or body, association, or establishment that has an interest in the case.



In cases other than those mentioned, a judge may, if there are serious grounds, request permission from the circuit president to recuse himself. If the request is made by the circuit president, he shall direct his request to the court president.

#### **Article (161)**

In those cases where a judge must recuse himself from hearing a case, each party may request removal under a petition stating the grounds and evidentiary methods.

If the petitioner knew the name of the judge when they were assigned to hear or rule on the case, the party or representative thereof must file the signed petition with the registrar two days prior to the session date. If they did not know, the petitioner shall file their petition in the session before the review and discussion of the case commences.

A request for removal shall result in the suspension of the case.

#### **Article (162)**

If the judge sought to be removed is in the first instance court, the president of such court shall rule on the removal. If the judge sought to be removed is the president of the first instance court in its district or a member of the court of appeal, the court of appeal shall issue the decision thereon.

Decisions on removals shall be pursuant to a ruling issued by the chambers after hearing the judge sought to be removed and the information submitted. Such decisions shall not be subject to appeal.

#### **Article (163)**

Orders to accept removal must include the the name of the assigned judge instead of the one whose removal was requested.

Removal requests shall be rejected if not submitted in the form and by the date provided in Article (161).

The order not to admit or to dismiss the request for removal must include a ruling on the expenses and a fine from five to fifty dinars for the party or representatives that submitted the request for removal.

The registrar, judge that was removed, and the party shall be notified of the order.

#### **Article (164)**

Removal may be requested if grounds for such occur after the set deadlines or if the applicant establishes that they did not know of such until after such deadlines had passed.

### **Chapter (10)**

#### **Rulings**

#### **Section (1) Issuance of Rulings**

#### **Article (165)**

The provisions recorded in this Law and recognised principles of the Maliki school shall apply, with the exception of the cases where the law provides special sharia provisions, in which case such must be applied.

### **Article (166)**

Deliberations on rulings shall be confidential among the judges assembled.

Only judges who heard the proceedings may participate in the deliberations, otherwise the ruling shall be invalid.

During deliberations, the court may not hear one of the parties or the representative thereof unless the other party is present, and it may not accept documents or briefs from one of the parties without the other party having access to them.

### **Article (167)**

Rulings shall be issued by majority. If a majority is not obtained and there are more than two diverging opinions, the team with the most junior judge must join one of the other two opinions, after the opinions are taken a second time.

The judges that participated in the deliberations must be present at the pronouncement of the ruling. If unable to be present, they must sign the draft ruling.

### **Article (168)**

After completion of the proceedings, the court may pronounce the ruling in the session and it may postpone issuance thereof until another session, provided it set a date such so the parties are aware of it.

If it is necessary to postpone issuance of the verdict a second time, the court must state such in the session and specify the day that it will be pronounced. The grounds for the postponement shall be stated in the session paper and in the minutes.

### **Article (169)**

The ruling must state the court that issued it, the issue date, the names of the judges who attended the proceedings and participated in the ruling, the names, surnames, capacity, and domicile of each party and whether they were present or absent, the names of their representatives, if any, or a summary of the requests, defence, motions, or evidence they submitted, and the case stages, then the grounds and text of the ruling shall be stated.

Deficiencies in the factual grounds of the ruling and defects or serious error in the names and capacities of the parties, as well as failure to state the names of the judges that issued the ruling shall result in invalidation of the ruling.

### **Article (170)**

Rulings must contain the grounds on which they are based, otherwise they shall be invalid.

However, if the ruling is issued to adopt an evidentiary procedure prior to a decision on the merits, it shall be sufficient to indicate this procedure in a diligent manner in the text of the ruling, specifying the date set for the procedure.

### **Article (171)**

The draft ruling containing the grounds and signed by the first instance judge or the president and members in disputes ruled on by more than one judge must be filed, with the date of filing stated therein, within thirty days from the pronouncement of the ruling.

#### **Article (172)**

The draft ruling containing the text and grounds thereof shall be kept in the file and copies thereof shall not be provided, although the parties may have access to it until the copy of the original ruling is completed.

#### **Article (173)**

A simple copy of the original ruling may be given to anyone, even if they are not related to the case, after paying the fee due.

#### **Article (174)**

The copy of the enforceable ruling shall be stamped with the court stamp and signed by the clerk after being given executory form. It shall be given only to the party that has an interest in the enforcement of the ruling, and shall only be given thereto if the ruling is enforceable.

#### **Article (175)**

A second enforceable copy may not be given to the same party except in the event that the first copy is lost.

#### **Article (176)**

If the registrar refuses to give the first enforceable copy, the applicant may submit a statement of their complaint to the president of the court that issued the ruling to issue an order thereon.

#### **Article (177)**

The court that issued the ruling shall hear disputes related to the receipt of a second enforceable copy upon the loss of the first as an urgent matter, based on a statement of claim filed in the manner set out in Articles (10), (11), and (12).

#### **Article (178)**

The first instance court may state in the body of its ruling that the ruling is immediately enforceable, according to what it finds clear from the circumstances of the case.

Rulings issued on support or nursing, housing, or custody costs or on handing the child over to its mother shall be immediately enforceable under the law.

If the ruling is to dismiss or add a trustee to a waqf, an interim ruling must be issued installing a trustee or adding another trustee until a final decision is issued on the dispute and the trustee is established in accordance with the sharia.

#### **Article (179)**

When issuing a ruling that ends the dispute before it, the court must rule of its own accord on the case expenses.

#### **Article (180)**

The party against whom the ruling is issued shall be ordered to pay the case expenses. Attorney fees shall be taken into consideration when calculating the expenses.

If a ruling is issued against more than one party, the ruling may divide the expenses equally among the parties or according to the interest of each party to the case, at the

court's discretion. The parties shall not be obliged to pay the expenses jointly unless they were jointly bound in the original obligation on which the judgement was issued.

#### **Article (181)**

The court may rule to oblige the party that won the case to pay all or a portion of the fees if the right was recognized by the other party, if the party that won the case caused incursion of pointless expenses, or kept the other party unaware of vital case documents in its possession or the contents thereof.

#### **Article (182)**

If both parties are unsuccessful in certain requests, the ruling may hold each party responsible for the expenses they paid or divide the expenses between the parties as determined by the court in its ruling. The court may also rule that all expenses be paid by one of the parties.

#### **Article (183)**

Intervention expenses shall be paid by the intervening party if they had independent requests and a ruling was issued not to accept their intervention or to dismiss their requests.

#### **Article (184)**

Case expenses shall be determined in the ruling if possible, otherwise they shall be determined by the president of the body that issued the ruling under an order on a petition submitted by the winning party. This order shall be served to the other party.

#### **Article (185)**

Both parties may challenge the expense assessment issued under the order referred to in the preceding Article. Challenges shall be made pursuant to a report with the registrar of the court that issued the ruling, within the eight days following service of the order. The registrar shall set the day that the challenge is heard before the court and notify the parties of such five days prior to the date set. The ruling issued on this challenge shall be final.

### **Section (3): Correction and Interpretation of Rulings**

#### **Article (186)**

The court shall correct any purely material clerical or mathematical errors in the body of its ruling by a decree issued of its own accord or at the request of one of the parties without pleading. The court clerk shall make this correction to the original copy of the ruling, which shall be signed by the clerk and the session president.

#### **Article (187)**

Correction decisions may be appealed if the court goes beyond the right provided thereto in the preceding Article, by the means of appeal permissible for the corrected ruling. Decisions issued rejecting a correction may not be independently appealed.

### **Article (188)**

The parties may request that the court that issued the ruling interpret any ambiguity or vagueness in the body thereof. Such request shall be submitted by the usual conditions for filing a case.

### **Article (189)**

Rulings issued on interpretation shall be deemed supplementary to the ruling it interprets, and the rules on the means of appeal shall apply to this ruling.

### **Article (190)**

If the court neglects to rule on certain substantive requests, the concerned party may summon the other party to appear before the court to hear this request and rule thereon.

## **Chapter (11)**

### **Means of Challenging Rulings**

#### **Section (1) General Provisions**

### **Article (191)**

The established means for challenging rulings are by appeal, petitioning for a retrial, and cassation, as set out by law.

### **Article (192)**

Rulings may only be challenged by the party against whom the ruling was issued and not by anyone who accepted the ruling or who was granted all their requests.

### **Article (193)**

Rulings issued prior to a decision on the merits of the case do not end the litigation and may only be challenged by challenging the ruling issued on the merits.

### **Article (194)**

Appeal deadlines shall commence from the date the ruling is served. Service shall be directly to the party against whom the ruling is issued or at their original domicile not the chosen domicile.

The deadlines shall apply to the party serving the ruling and the party served the ruling.

### **Article (195)**

Notice of appeal shall be served directly to the other party or at their original domicile or their chosen domicile, if stated in the document announcing the ruling.

Failure to observe the deadlines for appealing a ruling shall result in extinguishment of the right to appeal. The court shall rule to extinguish the right on its own accord.

The appeal deadline shall be suspended if one of the grounds for discontinuation of the litigation occur for the party against whom the ruling was issued. The discontinuation shall only end after the ruling is served to the party acting on behalf of the party who died, lost litigation capacity, or whose capacity was terminated.

## Section (2) Appeals

### Article (196)

The deadline for appeal shall be thirty days. An appeal shall be deemed filed when it is registered in the general register of appeals. Upon registration, a file shall be opened for the appeal case under the form specified by the Minister of Justice, in which the original statement of appeal and all documents related to this appeal shall be placed.

### Article (197)

If a ruling was issued based on an act of fraud committed by a party, a forged document, or false testimony, or if it was due to the failure to show a vital case document held by the party, the appeal deadline shall not commence until the date that the fraud became apparent, the forgery was acknowledged by the perpetrator or established in a ruling, a ruling was issued for the false testimony, or the held document appeared.

### Article (198)

Appeals shall be filed pursuant to a statement deposited with the registrar of the second degree court, consisting of an original and a number of copies equal to the number of respondents. In addition to the general information related to the names, capacity, and domicile of each of the parties, the statement shall include a description of the appealed ruling, the date thereof, the grounds on which the appeal is based, and the appellant's requests. The appellant shall pay the fee in full when submitting the statement, and at that time the competent employee shall indicate payment of the fee on the margin thereof. The documents shall be immediately submitted to the president of the court or circuit to set a session to hear the appeal. At the same time, it shall be recorded in the general register of appeals under the form specified by a decree from the Minister of Justice. The appellant or representative thereof shall sign the register indicating knowledge of the session and the serial number shall be written on the original statement. On the same day, the registrar shall send the service form, with a copy of the statement of appeal attached, to the administration or the service department to serve the respondent. The service form shall be specified by a decision issued by the Minister of Justice.

The appeal may also be made pursuant to a statement filed with the registrar of the court that issued the challenged ruling or by an oral statement of appeal before said registrar. In both cases, such registrar shall collect the fee in full and indicate the payment thereof on the documents and send them immediately, along with the case file, to the registrar of the second degree court. Such registrar shall register the appeal in the general register of appeals, write the appeal number on the statement, and notify the registrar of the first instance court thereof. At the same time, the parties shall be served notice of the date of the session set by the court president to hear the appeal.

If the appellant has received a decision from the competent body issuing an exemption from the fees, this decision shall replace the payment of the application fee in the two preceding paragraphs.

### Article (199)

Appeal of a ruling issued on the merits necessarily entails appeal of all prior rulings issued in the case, unless they were explicitly accepted.

### **Article (200)**

The court before which the appeal is filed may, based on a request written in the statement of appeal, rule to suspend immediate enforcement if it finds that the grounds of the challenge make reversal of the ruling likely and there is a concern that enforcement thereof might result in significant harm.

### **Article (201)**

Parties to an appeal may not submit requests with new claims not among the original claims, other than by the means of making motions in the original case. The court shall rule of its own accord on the inadmissibility of new requests.

The parties may provide new evidence to establish or refute the claims.

Anyone who was not a party to the case on which the appealed ruling was issued may not be joined. Intervention shall also only be permissible for those requesting to join one of the parties.

### **Article (202)**

The rules that apply to cases before the court of first instance shall apply to the appeals case, whether with regard to procedures or provisions, unless the law provides otherwise.

### **Article (203)**

When necessary, a president of the court of first instance or a representative or judge thereof may sit in the court of appeal. In this case, not more than one such person may participate in the ruling.

## **Section (3) Petitions for Retrial**

### **Article (204)**

Parties may petition for a retrial on terminal rulings issued, in the following cases:

1. If a party engaged in fraud that affected the ruling.
2. If, after the ruling, there is an acknowledgement or determination that documents on which the ruling was based were forged.
3. If the ruling was based on witness testimony found to be false after the ruling was issued.
4. If the petitioner obtains vital case documents after the ruling was issued whose submission the other party had prevented.
5. If the ruling was for something not requested by the parties or for more than was requested thereby.
6. If the text of the ruling contradicts itself.
7. If the ruling was issued *in absentia* based on an invalid service of process.
8. If the ruling was issued against an incapacitated person, waqf body, public-law person, or legal entity that was not properly represented in the case.

### **Article (205)**

The petition period shall be thirty days. In the cases set out in the first four items of the preceding Article, the period shall not begin until the date that the fraud became apparent, the forgery was acknowledged by the perpetrator or established in a ruling, a ruling was

issued for the false testimony, or the held document appeared. In the case set out in the last item of the preceding paragraph, the period shall begin from the day on which the ruling was served to the party who properly represents the party against whom the verdict was issued.

A petition shall be deemed filed when it is registered in the general register of petitions for retrial. Upon registration, a file shall be opened for the petition in accordance with the form specified under a decree from the Minister of Justice, in which the original petition statement and all documents related to this petition shall be placed.

#### **Article (206)**

Petitions for retrial shall be filed pursuant to a statement filed with the registrar of the court that issued the ruling, consisting of an original and a number of copies equal to the number of respondents, and, in addition to the general information related to the names of the parties and the domicile and capacity of each, shall include a description of the ruling on which the petition is being filed, the grounds thereof, and the petitioner's requests. The petitioner shall pay the fee in full upon submission of the statement, and at that time the competent employee shall indicate payment of the fee on the margin thereof. The documents shall be immediately submitted to the judge or circuit president to set a session to hear the petition and the petitioner shall be notified of the session date set. At the same time, the petition shall then be recorded in the general register of petitions in accordance with the form specified under a decree from the Minister of Justice. The petitioner or representative thereof shall sign the register indicating knowledge of the session and the original statement shall be marked with its serial number. On the same day, the registrar shall send the service form with a copy of the petition statement attached to the administration or to the process server department to serve the respondent. The service form shall be determined by a decision issued by the Minister of Justice.

If the petitioner has received a decision from the competent body issuing an exemption from the fees, this decision shall replace the payment of the application fee in the preceding paragraph.

The court that hears the petition may be composed of the same judges who issued the challenged ruling.

#### **Article (207)**

The filing of a petition shall not result in suspending enforcement of the ruling, although the court petitioned may, based on a request written in the petition statement, rule to suspend enforcement of the ruling if there is a concern that the enforcement thereof might result in serious irreparable harm. Such ruling shall not be subject to appeal, and shall be issued after hearing the concerned parties.

#### **Article (208)**

The court shall only retry the requests included in the petition. The court shall first rule on the admissibility of the petition for retrial, then set a session for the pleadings on the merits, without need for a new service, although it may rule to accept the petition and on the merits in one ruling if the parties have submitted their requests on the merits before it. If a ruling is issued to dismiss the petition, the petitioner shall be required to pay a fine of four dinars.



Rulings issued to dismiss a petition and rulings issued on the merits of the case after it is accepted may not be challenged by petition.

## **Section (4) Cassation**

### **Article (209)**

With regard to cassation, rulings issued by the sharia courts shall be subject to the rules in force on filing challenges before the Supreme Court on personal status.

## **Part (2) Enforcement**

### **Article (210)**

Rulings may not be forcibly enforced as long as appeal is permissible, unless the ruling is immediately enforceable according to the law or as ordered in the ruling. Enforcement is only permissible based on a copy of the ruling or conciliation memorandum issued in executory form.

### **Article (211)**

Rulings issued by the sharia courts shall be enforced by the administration, which is bound to perform them at the request of the party who receives the enforceable ruling. Enforcement may take place under the procedures established in the Code of Civil and Commercial Procedure, at the wish of the enforcement petitioner. Forcible sale of property may only take place under the procedures set out in the Code of Civil and Commercial Procedure.

### **Article (212)**

Enforcement of rulings issued by the sharia court on obedience, maintenance of the marital home, separation of spouses and surrender of the child, or other like matters related to civil status shall be coercive even if that leads to the use of force and the entry of homes. In these cases, persons tasked with enforcement shall follow the instructions given by the judge or deputy judge in whose district the enforcement location is situated.

### **Article (213)**

If a party against whom a ruling is issued fails to implement a ruling issued by the sharia court on support or on custody, nursing, or housing fees, the matter shall be raised before the first instance court in whose district the domicile of the party against whom the ruling was issued is located or where the enforcement location is situated. When the court establishes that the party against whom the ruling was issued is capable of performing what was ordered in the ruling and did not comply, it shall rule to imprison them for a period not to exceed twenty days. If said party pays the judgement amount or presents a solvent guarantor they shall be released. This shall not bar enforcement of the ruling in the customary ways.

### **Article (214)**

If a problem related to a sharia issue occurs when a ruling issued by a sharia court is enforced, after adopting interim measures if required, any matter related to the provisional measures shall be filed before the court of first instance in whose district the enforcement location is situated. Any matter related to the original case shall be filed before the court that issued the ruling.

When a problem with enforcement related to a sharia issue occurs, the party entrusted with enforcement shall specify in their report the day and hour that the parties appeared before the sharia court for a decision thereon. The parties shall be served notice of such and the documents shall be sent to the court. If the party raising the problem does not appear, the problem shall be deemed null and void, the ruling shall be enforced, and no problem shall be accepted from said party after this. If the party appears, the court shall rule on the problem and its ruling shall be final and not subject to any type of challenge.

### **Part (3)**

#### **General Provisions on Summonses and Calculation of Deadlines**

### **Article (215)**

Every summons must include the following information:

- a. The date, including the day, month, year, and time the summons was served.
- b. The name, surname, profession or vocation, and domicile of the party requesting the summons and the name, surname, profession, and domicile of their representative and whether they work for a third party.
- c. Name and position of the employee that delivered the summons.
- d. The name, surname, profession or vocation, and domicile of the party served, or their last domicile, if they do not have a known domicile at the time of service.
- e. Name of the party to whom a copy of the document was delivered and their signature or fingerprint on the original, or a statement of their refusal and the grounds therefor.
- f. Signature of the employee that delivered the summons, on both the original and the copy.

Summonses shall be served by a process server, the administration, or the employees specified under a decree from the Minister of Justice.

### **Article (216)**

The documents to be served shall be delivered to the person directly or at their domicile. The documents may be delivered to the chosen domicile in those cases set out by law. Where required by law, delivery shall be to the person directly.

### **Article (217)**

If the employee serving the summons does not find the party to be served at their domicile they shall deliver the document to the party's representative, employee, or any relatives or in-laws living with them. If they are not found or those present refuse to receive the document or appear to be incompetent, the summons must be delivered to the police station, mukhtar, or tribal sheikh in whose district the person's domicile is located, as the case may be. Within twenty-four hours, the party serving the summons shall send a letter

by registered mail to the original domicile of the party being served informing them that the copy was delivered to the police, mukhtar, or tribal sheikh.

This must all be stated in detail in a timely manner on the original summons and the copy thereof.

### **Article (218)**

With the exception of any provision made in special laws, a copy of the summons shall be delivered as follows:

1. For matters concerning the federal government: to ministers and directors of the competent federal authorities or the person acting in their place.
2. For matters concerning royal affairs: to the minister thereof.
3. For matters concerning the provinces: to the provincial presidents, ministers, provincial governors, or the person acting in their place.
4. For matters concerning public-law persons: to their legal representative.
5. For matters concerning commercial companies: at the company's administrative headquarters to one of the joint partners, the chairman of the board of directors, or the director. If the company does not have a headquarters it shall be delivered to one of these people in person or to their domicile.
6. For matters concerning civil companies, associations, establishments, and all legal entities: the copy shall be delivered at its administrative headquarters to its representatives under its articles of establishment or statute. If it does not have a headquarters the copy shall be delivered its representative in person or to their domicile.
7. For matters concerning foreign companies that have branches or an agent in Libya: it shall be delivered to this branch or agent.
8. For matters concerning members of the armed forces and the like, the document shall be delivered by the public prosecution to the body designated by the competent minister in a decree.
9. For matters concerning prisoners: it shall be delivered to the prison warden.
10. For matters concerning incompetent or incapacitated individuals: it shall be delivered to the custodian or guardian.
11. For matters concerning crew and employees of commercial ships: it shall be delivered to the ship master.
12. For matters concerning persons who have a known domicile abroad: it shall be delivered to the prosecution and the prosecution shall send a copy to the Ministry of Interior to be delivered through diplomatic channels.
13. If the domicile of the party to be served is unknown, the document must contain their last known domicile in Libya or abroad, and the copy delivered to the prosecution.

If the party being served or the representative thereof refuses to accept a copy of the document or refuses to sign the original indicating receipt, the party serving the summons shall write such on the original and the copy and deliver the copy to the prosecution.

### **Article (219)**

Anyone who receives a copy of the documents served must sign the original with their handwriting, stamp, or fingerprint, indicating receipt. If they refuse to sign, the party serving the summons must state such on the original and copy.

The party serving the summons shall return the original to the court after completion of the procedures.

Summons may not be served before 7:00 a.m. or after 7:00 p.m. or on official holidays, except in cases of necessity by written permission from the judge or court president.

### **Article (220)**

If the law specifies a deadline to appear or conduct a procedure that is counted in days, months, or years, the day of the summons to appear, the notice, or the issuance of an order deemed to be in force under the law shall not be calculated in the deadline. If the deadline is one within which a procedure must take place, the deadline shall end with the passage of the last day thereof. If the deadline is one that must pass before a procedure is performed, the procedure may not take place until after the last day of the deadline has passed. Dates specified by month or year shall be calculated based on the Gregorian calendar, unless provided otherwise.

### **Article (221)**

If the law specifies a deadline to appear or to initiate a procedure, one day shall be added to said deadline for each distance of twenty-five kilometres between the location from which the party must travel and the location to which they must travel.

One day shall be added to the deadline for any remaining fractions over twenty-five kilometres. In no case may the travel period exceed eight days.

The travel period shall be twenty days for those whose domicile is in the border regions and those residing in the interiors. At the request of the concerned parties, the judge may set a date to appear, taking into consideration the distances and means of transportation.

### **Article (222)**

Travel periods for those whose residence is abroad shall be:

1. Thirty days for countries located on the Mediterranean.
2. Sixty days for European countries.
3. 150 days for other countries.

The court president may order the reduction of this period based on ease of transportation and urgency of the circumstances.

These deadlines shall not apply to those who were served in person while in Libya. The judge or court president, as the case may be, the court may when hearing the case order to extend the usual deadlines or deem them extended provided that in both cases it not exceed the deadline provided therefor if they were served at their domicile abroad.

### **Article (223)**

Deadlines shall include official holidays. If the end of the deadline is an official holiday, it shall be extended to the first working day thereafter.

## **Part (4)**

### **Verification of Death and Inheritance**

#### **Article (224)**

Applicants for verification of death and inheritance shall submit a request for such to the competent judge. The request shall include the date of death, domicile of the deceased at the time, the names and domiciles of the heirs, and the location of the bequest property.

#### **Article (225)**

The judge may ask the administration to conduct an inquiry on the information stated in the preceding paragraph from the mukhtar or tribal sheikh in whose district the domicile is located, the party acting on their behalf, or from the family of the deceased.

Inquiries must be signed by the aforementioned and the signatures certified by the administration.

#### **Article (226)**

If a judge finds that an inquiry is insufficient or contains an untruth, they may conduct the investigation themselves.

#### **Article (227)**

After completion of the inquiry, the applicant shall summon the remaining heirs to appear before the judge on the date set for such.

If all or a portion thereof appear and anyone not appearing responds with approval or does not respond at all, the judge must verify the heirs by testimony from a reliable party and by comparison of said inquiries.

If anyone not appearing responds with denial, the applicant must file their case through sharia means.

#### **Article (228)**

If any of the heirs is a minor, institutionalised, or absent, their guardian, custodian, or representative shall act in their place.

#### **Article (229)**

Verification of death and inheritance as mentioned shall be proof with regard to the death and inheritance, provided a sharia ruling is not issued to remove certain heirs or join others.

## **Part (5)**

### **Certification**

#### **Article (230)**

First instance judges shall perform the following within their area of jurisdiction:

- a. Certify all contracts related to the personal status of Muslims or others, whether Libyan or foreign. For foreign non-Muslims, the permission of the Ministry of Justice shall be observed prior to certification. An imam may represent a judge in the certification of marriage contracts and divorce declarations. A marriage officer whose appointment

and terms of work are specified under a decree issued by the Minister of Justice may also represent a judge in such, on condition that the imam or marriage officer swear the legal oath before the president of the competent sharia court of first instance to perform the activities of their job conscientiously and truthfully.

- b. Certification of civil and commercial documents.
- c. Certification of all powers of attorney and certificates, authentication of signatures and stamps, and establish dates for all documents.

#### **Article (231)**

No one performing certifications may perform the certification of a document concerning them personally or where the concerned party is a relative by blood or marriage up to the fourth degree. This provision shall also apply with regard to the certification of signatures.

#### **Article (232)**

Procedures for certification, authentication of signatures, establishment of dates, along with the relevant books and related fees shall be governed by a decree from the Minister of Justice.