

## West Pakistan Family Courts Rules, 1965

[Gazette of West Pakistan, Extraordinary, 2nd November 1965]

**No. Intg. 10-31/64 (ii).**---In exercise of the powers conferred by section 26 of the West Pakistan Family Courts Act, 1964 (Act No. XXXV of 1964), the Governor of West Pakistan is pleased to make the following rules, namely :-

1. These rules may be called the West Pakistan Family Courts Rules, 1965.

2. In these rules, unless there is anything repugnant in the subject or context :--

(a) "Act" means the West Pakistan Family Courts Act, 1964 (Act XXXV of 1964);

<sup>1</sup>[(b) "Court" means the Family Court established under this Act;]

(c) "form" means a form appended to these rules, <sup>2</sup>[...]

(d) "section" means a section of the Act <sup>3</sup>[; and]

<sup>4</sup>[(e) "suit" includes an application for the custody of children or guardianship under the Guardians and Wards Act, 1890.]

<sup>5</sup>[3. The Courts of the District Judge, the Additional District Judge, the Civil Judge, the President of the Majilis-e-Shoora Kalat, and the Qazi appointed under the Dastur-ul-Amal Diwani Riasat Kalat, shall be the Family Courts for the purposes of the Act.]

4. (1) A plaint under subsection (1) of section 7 shall be in writing, signed and verified by the plaintiff and shall be presented to the Court having jurisdiction under rule 5 of these Rules by the plaintiff or through a counsel, and where the plaintiff is a female, by her agent.

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1. Substituted by Notification No. Integ. 10-31-64/II, dated 05-04-1966  
 2. The word "and" omitted by Notif. No. Integ. 10-31-64/II, dt. 05-04-1966  
 3. Substituted by Notification No. Integ. 10-31-64/II, dated 05-04-1966  
 4. Inserted by Notification No. Integ. 10-31-64/II, dated 05-04-1966  
 5. Substituted by Notification No. Integ. 10-31-64, dated 19-08-1969.

(2) The plaint under sub-rule (1) shall also contain the following particulars:--

- (a) name of the Court in which the suit is brought and the facts showing that it has jurisdiction;
- (b) the name, description and place of residence of the plaintiff;
- (c) the name, description and place of residence of the defendant so far as can be ascertained;
- (d) where the plaintiff or the defendant is a minor or a person of unsound mind a statement to that effect;
- (e) the facts constituting the cause of action and the place where and date when it arose; and
- (f) the nature of the claim and valuation of the claim with particulars in brief and the relief claimed.

**5.** Where a plaint is presented to a Court not having jurisdiction--

- (a) the plaint shall be returned to be presented to the Court to which it should have been presented;
- (b) the Court returning the plaint shall endorse thereon the date of its presentation to it and its return, the name of the party presenting it, and a brief statement of the reasons therefor.

**6.** The Court which shall have jurisdiction to try a suit will be that within the local limits of which-

- (a) the cause of action wholly or in part has arisen, or
- (b) where the parties reside or last resided together:

Provided that in suits for dissolution of marriage or dower, the Court within the local limits of which the wife ordinarily resides shall also have jurisdiction.

<sup>1</sup>[7. (1) Suits triable under the Act shall instituted in, and be heard and tried by, the Court of the Civil Judge having jurisdiction as provided in rule 6, and where in any District there is no such Court, such suites shall be instituted in, and be heard and tried by the Court of the District Judge or the Additional District Judge.

(2) Notwithstanding any thing contained in sub-rule (1), the Court of the District Judge may send for the record and proceedings of any suit pending for trial in any Court in the District and hear and try the suit itself or refer it for trial to any other Court within the District, and thereupon the Court of District Judge or the Court to which such suit is so transferred, as the case may be, shall have jurisdiction to hear and try the suite.]

**8.** The Court of the District Judge may, for reasons to be recorded in writing, stay the proceedings of any suit pending in the Court of the Senior Civil Judge, Civil Judge, First Class or Civil Judge, First Class (Additional).

**9.** On transfer of a case from one Court to another it shall not be necessary to commence the proceedings before the succeeding Judge de novo unless the Judge for reasons to be recorded in writing directs otherwise

**10.** (1) The Court may, where it deems fit, direct that the whole or any part of the proceedings under the Act be held in camera.

(2) Where both the parties to the suit request the Court to hold the proceedings in camera, the Court shall do so.

<sup>2</sup>[**10-A.** (1) The Evidence of each witness shall be taken down in writing, in the language of the Court by the presiding officer of the Court, or in his presence and hearing and under his personal direction and superintendence and shall be signed by the presiding officer of the Court.

(2) When the evidence of a witness is given in English, the presiding officer of the Court may take it down in that language with his own hand and unless the parties request the Court otherwise, an authenticated translation of such evidence in the language of the court shall form part of the record.

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1. Substituted by Notification No. Integ. 10-31/64, dated 17-04-1969

2. Inserted by Notification No. 10-31/64, dated 21-02-1967.

(3) When the evidence of a witness is given in any other language not being English, than the language of the Court, the presiding officer of the Court may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record.

(4) In cases in which the evidence is not taken down in writing by the presiding officer of the Court, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the presiding officer of the Court with his own hand, and shall form part of the record.

(5) As the evidence of each witness taken down is completed, it shall be read over to him, and shall, if necessary, be corrected.

(6) If the witness denies the correctness of any part of the evidence when the same is read over to him, the presiding officer of the Court may, instead of correcting the evidence, make a memorandum thereon of the objections made to it by the witness, and shall add such remarks as he thinks necessary.

(7) If the evidence is taken down in a language different from that in which it has been given and the witness does not understand the language in which it is taken down the evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

(8) When the Court has recorded the evidence of a witness, it shall also record such remarks (if necessary) as it thinks material respecting the demeanour of such witness whilst under examination.]

**11.** Where the parties agree to a compromise or conciliation effected between them under subsection (3) of section 10 or subsection (1) of section 12, the Court shall pass a decree or give decision in the suit in terms of the compromise or conciliation agreed to between the parties, as the case may be..

**12.** (1) Where the plaintiff or his pleader, makes default in appearing before the Court, the suit may be dismissed in default.

(2) The Court may restore a suit dismissed in default on sufficient cause shown, on application made to it within thirty days of the dismissal in default.

**13.** Ex parte decree or proceedings may, for sufficient cause shown, be set aside by the Court on application made to it within thirty days of the passing of the decree or decision.

**14.** Every judgment or order shall be written by the presiding Judge or from the dictation of such Judge in the language of the Court, or in English and shall be dated and signed by the Judge in open Court at the time of pronouncing it.

(2) Judgments and orders which are appealable shall contain the point or points for determination, the decision thereon and the reasons in brief for the decision.

### **REGISTERS OF CASES, DECREES, ORDERS, ETC.**

**15.** When a plaint has been filed, its particulars shall be entered in a register to be kept in the form prescribed for Civil Suits under the Code of Civil Procedure, 1908.

**16.** In every suit, on passing the judgment, a decree shall be drawn up in Form I and shall be signed by the presiding Judge. The decree shall bear the seal of the Court.

**17.** The Court shall maintain a register of decrees and orders in the form prescribed for decrees and orders under the Code of Civil Procedure, 1908.

**18.** Whenever any fine is paid under section 15 or section 16 or money or property is deposited with or realized by the Court under the Act or these rules, a receipt shall be given in Form II which shall be serially numbered and the counterfoil thereof shall be kept in the Court.

**19.** All fines, monies, or property deposited or realized and disbursed by the Court shall be entered in a register in Form III.

**20.** Where the Court receives any amount payable to a party it shall cause a notice thereof to be served on the party entitled to receive it and shall pay it to the party concerned within four days, so far as may be of his applying therefor.

**21.** The records of the Court, including its registers, shall be preserved for such period as is provided under the rules of the High Court applicable to Civil Courts.

### **APPEALS**

**22.** <sup>1</sup>[(1) An appeal under section 14 shall be preferred within thirty days of the passing of the decree or decision, excluding the time requisite for obtaining copies thereof;

Provided that the appellant Court may, for sufficient cause, extend the said period.]

(2) The appeal shall be in writing, shall set out the grounds on which the appellant seeks to challenge the decree or decision, shall contain the names, description and addresses of the parties, and shall bear the signature of the appellant or his counsel.

(3) A certified copy of the decree and decision of the Court where a decree is passed, and a copy of the decision where only an order is passed shall be attached with the appeal.

<sup>2</sup>[(4) Any order passed by the Appellate court shall, as soon as may be, be communicated to the Trial Court which shall modify or amend the decree or decision accordingly and shall also make necessary entries to that effect in the appropriate column of the register of decrees.]

### **RECORDS AND THEIR INSPECTION**

**23.** (1) The Court shall, on the application of any party to a dispute, allow inspection of the records of the Court relating to the dispute on payment of a fee of fifty paise.

(2) On the application of any party to a suit, certified copies of the decree or decision or other proceedings or entry in any register maintained under these rules or of any portion thereof shall be supplied on payment of a fee calculated at the rate of 25 paise for two hundred words or part thereof.

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1. Substituted by Notification No. Integ. 10-31/64, dated 21-03-1967

2. Substituted by Notification No. Integ. 10-31/64, dated 21-02-1967

**24.** (1) There shall be kept in the office of every Court a seal of the Court which shall be circular in shape and shall have thereon the inscription 'Family Court' and the name of the District.

(2) The seal of the Court shall be used on all summonses, orders, decrees, copies and other documents issued under the Act or these rules.

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**FORM 1**  
(See Rule 16)  
Form of decree

In the Family Court.....

1. Case No.....

2. ....Petitioner / Plaintiff

Versus

..... Defendant / Respondent

3. Claim for .....  
This suit coming this day for final disposal before this Family Court, it is hereby ordered that .....

Date.....

Seal of the Court

Signature of the Judge  
Family Court at.....

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**FORM II**  
(See rule 18)  
Receipt of Fine, Money or Property

1. Name of the Family Court .....

2. Name of the payer.....

3. Amount of fine, money or property paid .....

4. Particulars of the case and purpose of payment.....



5. Date of payment.....

(Seal) .....

Signature of the Judge  
Family Court at.....

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**FORM III**

(See Rule 16)

Register of Receipts and Disbursement

Family Court of .....

1	2	3	4	5	6	7	8	9
S. No.	Name and address of the payer	Amount of property paid, realized or deposited.	Particulars of the case	Date of receipt	No. of receipt in Form II.	Signature of the Judge, Family Court	Date of disbursement with the name of the person to whom the money or property is paid or	Remarks

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