

GOVERNMENT OF <sup>1</sup>[KHYBER PAKHTUNKHWA],  
LAW DEPARTMENT.

NOTIFICATION.

Dated Peshawar, the 30th October, 1977.

No. Legis: 3(19)/76.--- In exercise of the powers conferred by section 16 of the <sup>2</sup>[Khyber Pakhtunkhwa] Civil Procedure (Special Provisions) Act, 1977 (<sup>3</sup>[Khyber Pakhtunkhwa] Act No. IX of 1977), the Government of the <sup>4</sup>[Khyber Pakhtunkhwa] is pleased to make the following rules, namely:---

1. *Short title and commencement.*---(1) These rules may be called the <sup>5</sup>[Khyber Pakhtunkhwa] Civil Procedure (Special Provisions) Rules, 1977.

(2) They shall come into force at once.

2. *Definitions.*--- In these rules, unless the context otherwise requires,---

- (a) “Act” means the <sup>6</sup>[Khyber Pakhtunkhwa] Civil Procedure (Special Provisions) Act, 1977 (<sup>7</sup>[Khyber Pakhtunkhwa] Act IX of 1977);
- (b) “Form” means a form appended to these rules;
- (c) “President” means the president of a Jirga;
- (d) “reference” means a reference made to a Jirga for a finding under the Act; and
- (e) “section” means a section of the Act.

3. *Convening the meeting of the Jirga.*--- (1) Immediately after constituting the Jirga under section 4,6,or 10, the Deputy Commissioner shall communicate to the President the names of the other members of the Jirga, and require him within 15 days of the receipt of his directions or within such longer period as the Deputy Commissioner in the special Circumstances of a particular case may specify to convene a meeting of the Jirga for the purpose of adjudicating upon the dispute referred to it for a finding.

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<sup>1</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>2</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>3</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>4</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>5</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>6</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>7</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

(2) On the receipt of the direction under sub-rule (1), the President shall send a request in writing to the members of the Jirga specifying therein the date, time and place of the meeting and shall also require the attendance of the parities.

4. Procedure when a member of the Jirga is interested in a party.--- (1) If any member of the Jirga is personally interested in or is prejudiced against any party to the reference made to the Jirga he shall disclose such fact to the President, who shall thereupon refer the matter to the Deputy Commissioner for appointing another person as member in the place of such member.

(2) If a member of a Jirga dies, refuses to act, becomes incapacitated from acting or fails to attend any meeting of the Jirga without sufficient cause, the President shall refer the matter to the Deputy Commissioner for appointment of another member in the place of such member.

(3) In appointing a member under sub-rule (1) or sub-rule (2), the Deputy Commissioner shall follow the procedure laid down in section 5.

5. Written statement.--- The defendant may, and, if so required by the Jirga, shall, at or before the first hearing or within such time as the Jirga may permit, present a written statement of his defence.

6. Framing of issues--- (1) At the first hearing of the case the Jirga shall, after reading the plaint and the written statement, if any, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall there upon proceed to frame and record the issues on which the right decision of the case appears to depend.

(2) Nothing in this rule requires the Jirga to frame and record issues where the defendant at the first hearing of the case makes no defence.

7. Proceedings of Jirga to be from day to day--- The Jirga shall proceed with the reference from day today unless for any special reason to be recorded in writing by the President, an adjournment for a longer period is deemed necessary.

8. Memorandum of evidence to be maintained by the President.--- The President shall, in his own hand or under his supervision, keep a memorandum of the evidence tendered before the Jirga and shall sign the same.

9. Jirga to record reasons where it refuses to hear any evidence.--- Where the Jirga refuses to hear any evidence on the ground that it is being tendered for the purpose of vexation, delay or defeating the ends of justice, it shall record its reasons for such refusal.

10. Sittings of Jirga.--- The Jirga shall hold its sittings at such place or places any may be specified by the Deputy Commissioner.

11. Supply of copies.--- The parties shall be entitled to copies of any order or decree passed under the Act or the memorandum of evidence kept under rule 8, on payment of fee prescribed for copies granted by Courts.

12. Register of revisions.--- A register of revisions shall be maintained in Form 'A'.

13. Registers to be maintained by the Commissioner.--- The Commissioner shall maintained a register of appeals in Form 'B'.

14. Registers to be maintained by the Deputy Commissioner.--- The Deputy Commissioner shall maintain a register of references made under section 4 in Form 'C'.

15. Register to be maintained by Jirga.--- A Jirga shall maintain a register of references made to it in Form 'D'.

Faiz Muhammad Khan,  
Secretary to Government of  
<sup>8</sup>[Khyber Pakhtunkhwa],  
Law Department.

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<sup>8</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

**REGISTER OF REVISION PETITIONS  
TO BE MAINTAINED BY GOVERNMENT  
FORM 'A'**

Number of appeal.	Date of appeal.	Date of order/ decree passed in appeal	Brief description of order/ decree passed in appeal.	Date when the record called for review.	Brief description of order passed in review.	Remarks
1	2	3	4	5	6	7

REGISTER TO BE MAINTAINED BY COMMISSIONER  
FORM 'B'  
REGISTER OF APPEALS.

Number of appeal.	Date of appeal.	Date of order	Brief description of decree or order	Decision of appeal along with date of announcement	Remarks
1	2	3	4	5	6

**REGISTER TO BE MAINTAINED BY DEPUTY COMMISSIONER**  
**FORM 'C'**  
**REGISTER OF REFERENCES.**

Serial No.	Name of parties including plaintiff.	Date of issue of notice to parties for appointment of members of Jirga.	Date of appointment of members of the Jirga	Date of issue of direction to the Jirga to convene meeting of Jirga.	Date on which finding of Jirga received.	Substance of finding of Jirga.	Substance of the order of Deputy Commissioner on finding of Jirga.	Remarks
1	2	3	4	5	6	7	8	9

**REGISTER TO BE MAINTAINED BY THE  
TEHSILDAR/NAIBTEHSILDAR.**

**FORM 'D'**

Serial No.	Date of reference to Jirga	Brief statement of plaint.	Date of despatch of Jirga's recommendation.	Brief description of Jirga recommendation.	Remarks
1	2	3	4	5	6