

**GOVERNMENT OF THE ¹[Khyber Pakhtunkhwa]
HOME AND TRIBAL AFFAIRS DEPARTMENT.**

NOTIFICATION.

2nd February, 1977.

No. 13/8-SOTA-1 (HD)/76(B).--- In exercise of the powers conferred by section 32 of the ²[Khyber Pakhtunkhwa] Criminal Law (Special Provisions) Ordinance, 1976 (³[Khyber Pakhtunkhwa] Ord. XVIII of 1976), the Government of the ⁴[Khyber Pakhtunkhwa] are pleased to make the following rules namely:---

1. *Short title and commencement.*--- (1) These rules may be called the ⁵[Khyber Pakhtunkhwa] Criminal Law (Special Provisions) Rules, 1977.

(2) They shall come into force at once.

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

(a) "Form" means a form appended to these rules;

(b) "Ordinance" means the ⁶[Khyber Pakhtunkhwa] Criminal Law (Special Provisions) Ordinance, 1976;

(c) "President" means the President of a Jirga;

(d) "reference" means a reference made to a Jirga for decision under the Ordinance; and

(e) "section" means a section of the Ordinance.

3. *Convening the meeting of the Jirga.*---(1) Immediately after constituting the Jirga under sections 6, 7 or 11, 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 enquiring into the question referred to it for decision.

1 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

2 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

3 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

4 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

5 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

6 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

(2) On 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 parties and their witnesses on that date, and at that time and place.

(3) When the accused is in custody, the President shall by his warrant require the production of the accused before the jirga on the date, time and place specified under sub-rule (2) or on any other date to which the enquiry before the jirga may be adjourned.

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 in 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 appointing 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 6.

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

6. *Memorandum of evidence to be maintained by the President.*--- (1) the President shall, in his own hand or under his supervision maintain a memorandum of the evidence tendered before the jirga and shall sign the same.

(2) The parties shall be entitled to copies of the memorandum of evidence maintained under sub-rule (1) at the rates prescribed for copies granted by Magisterial Courts.

7. *Jirga to record reasons wheres it refuse to hear any evidence*---. Where the jirga refuses to hear any evidence on the ground that is being tendered for the purposes of vexation, delay or defeating the ends of justice, it shall record its reasons for such refusal.

8. *Sitting of Jirga.*--- The Jirga shall hold its sittings at such place or places as may be specified by the Deputy Commissioner, provided that if the jirga deems fit, it may also meet at a place where the offence which has been referred for decision to the jirga or any material part thereof is alleged to have been committed, or the cause of action arose, or any place in the vicinity of such place.

9. *Compounding of offences.*---(1) The offences tribal under the Ordinance may be compounded, if the aggrieved party is agreeable to the composition.

(2) Where it is proved to the satisfaction of the authority competent to allow the offence to be compounded that he aggrieved party is agreeable to the composition of the case, it shall order the terms of the composition to be recorded.

10. *Composition of offences by jirga.*--- All offences which are punishable with imprisonment not exceeding seven years may be compounded before the jirga.

11. *Composition of offences with the permission of Deputy Commissioner.*---(1) All offences which are punishable with imprisonment exceeding seven years may be compounded with the permission of the deputy Commissioner.

(2) An application for the composition of an offence under this rule may be submitted to the Deputy Commissioner or to the Jirga to which the question of guilt or innocence of the persons accused of such offences has been referred.

(3) Where the application is made to the Jirga, it shall submit the same to the Deputy Commissioner with its recommendations whether the permission for compounding the case may be granted or refused.

(4) Where the application is made to the Deputy Commissioner and the case is being inquired into by the Jirga, the Deputy Commissioner may call for a report from the Jirga and, pending disposal of the application, may stay and proceedings before the Jirga.

12. *Permission for compounding of offences after conviction.*--- When an accused has been convicted and an appeal or an revision petition is pending, no offence shall be compounded without the permission of the authority before which the appeal or revision petition is pending.

13. *Effect of composition.*--- The composition of an offence under these rules shall have the effect of an acquittal of the accused with whom the offence has been compounded.

14. *Free supply of copy of orders in appeal.*--- Parties shall be entitled to copies, free of cost, of the orders passed by the commissioner in appeal or by Government in revision.

15. *Register of Revision.*---A register of revision shall be maintained in Form 'A'.

16. *Registers to be maintained by Commissioner.*--- The Commissioner shall maintain the Register of Appeals in Form 'B'.

17. *Registers to be maintained by the Deputy Commissioner.*--- The Deputy Commissioner shall maintain the following Registers:---

(i) Register of Criminal References in Form 'C'.

- (ii) Register of cases of Security Proceedings in Form 'D'; and
- (iii) Register of Fines in Form 'E'.

18. *Register to be maintained by Jirga.*--- A Jirga shall maintain a register of cases referred to it in Form 'F'.

ARSHAD FARID
Secretary to Government of ⁷[Khyber Pakhtunkhwa],
Home and tribal Affairs Department.

REGISTER OF REVISION PETITION.**FORM 'A'.**

Number of appeal	Date of appeal	Date of sentence	Brief description of section convicted under and sentence awarded	Date when record called for review.	Brief description of order passed in view.	Remarks.
1	2	3	4	5	6	7

REGISTER TO BE MAINTAINED BY THE COMMISSIONER.**FORM "B".****REGISTER OF APPEALS.**

Number of appeal.	Date of appeal	Date of sentence.	Brief description of section convicted under and sentence awarded.	By whom sentence awarded	Decision of appeal along with date of announcement.	REMARKS.
1	2	3	4	5	6	7

REGISTER TO BE MAINTAINED BY THE DEPUTY COMMISSIONER.

FORM 'E'.

REGISTER OF FINES.

No. of case.	Name and particulars of accused.	Punishment and section of law.	Date of sentence.	Amount for collection.	Amount collected during the year.	Balance due to the end of the year.	No. of refund order.	Date of refund order.	Amount ordered to be refunded.	Amount of compensation awarded to complainant or his heirs.	Date of payment of compensation.	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12	13

