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## **Islamic Emirate of Afghanistan**

### **Supreme Court**

#### **General Directorate of Secretariat**

#### **Correspondence Directorate**

#### **Circular Section**

Memo No: 45

Date: March 30, 2023 (1444/09/08)

To: Officials of the Directorates of Cassation Courts, Dewans, Appeal and Primary Courts of the Islamic Emirate of Afghanistan

May Allah's blessings, mercy, and peace be upon you!

It has come to our attention that:

On February 28, 2023 (8/8/1444 AH), the High Council of the Supreme Court held a meeting to discuss various matters. The eighth topic concerned instances where the main party to a lawsuit does not appear in court for case processing and follow-up, instead sending their defense lawyer as a representative. In response to this issue, the High Council issued the following directive in Resolution No. 31, dated February 28, 2023 (8/8/1444 AH):

"Litigants have the right to pursue their cases personally or to appoint a defense lawyer or another legal representative to protect their rights in the courts of the Islamic Emirate of Afghanistan."

In accordance with the Defense Lawyers Procedure, prepared by the respected Ministry of Justice and approved by the Supreme Leader of the Islamic Emirate of Afghanistan, defense lawyers are appointed based on the prescribed form. Consequently, there is no need for a Sharia deed (power of attorney) in criminal cases involving the rights of Allah, as per Article 42 of the Procedure.

Article 43 of the Defense Lawyer Procedure stipulates that, in criminal cases concerning human rights (Haq Al-Abd), defense lawyers are appointed based on a Sharia deed (power of attorney, whether confession-based or witness-based). Emirate courts should prepare this deed in accordance with Circular No. 7, dated August 23, 2022 (1444/1/25 AH), issued by the General Directorate of the Supreme Court Secretariat. Thus, defense attorneys may handle criminal cases related to the rights of Allah and legal and criminal cases related to human rights (Haq Al-Abd) by possessing a Sharia deed (power of attorney) and participating in judicial meetings as their client's representative, defending their client's rights.

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In light of the above, Deeds departments and all courts are instructed to cooperate with defense attorneys when preparing the aforementioned deed (power of attorney). Courts should also assist defense attorneys in accordance with the guidelines provided when they seek help.

The Supreme Court of the Islamic Emirate of Afghanistan has attached the above directives to this circular, which is being sent to all directorates of Cassations, Dewans, Appeals, and Primary Courts of the Islamic Emirate of Afghanistan. Please ensure that all required Sharia-compliant actions are taken.

**Regards,**

**Mufti Abdul Rasheed “Saeed”  
General Director of the Secretariat  
Supreme Court**