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# **Islamic Emirate of Afghanistan**

## **Law on Administrative Procedure of Courts**

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**In the Name of Allah, the Most Merciful, the Most  
Compassionate!  
Preamble**

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## LAW ON ADMINISTRATIVE PROCEDURE OF COURTS

### GENERAL PROVISIONS

#### **Article 01:**

All the lawsuits shall be decided by the primary courts first.

#### **Article 02:**

In legal cases where the subject matter of the case is up to 20,000 AFN, and in criminal cases for which the punishment is not one month of imprisonment (considered petty crimes), the decision made by the primary court shall be considered final.

In the absence of an appeal by parties, the decisions made on other cases shall be enforced, except the cases involving a child, death penalty (*execution*), *Qisas* (*literally "retaliation in kind"*), *Hudud* (*literally "limits"*), and long-term imprisonment that shall be implemented after being heard by three-tiered courts.

#### **Article 03:**

The decisions made by the primary courts shall be enforceable if their decisions are not revoked or dismissed by the same court or a similar court or by an upper court based on an appeal.

#### **Article 04:**

The decisions made by non-judicial hearings on legal matters shall not be valid.

#### **Article 05:**

The courts shall hear only the cases presented to them on which they have jurisdiction.

#### **Article 06:**

The courts shall adjudicate the civil and criminal cases presented to them by the parties of the case and/or the relevant department requesting a judgment by the court.

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**Article 07:**

When there are multiple lawsuits, they shall be separated by the court's judge, and a token number shall be given to each plaintiff and defendant based on their entry so that they can appear in the court on the given dates to present their cases.

**Article 08:**

The courts shall be obliged to adjudicate the claims/cases in accordance with the Sharia rules.

**Article 09:**

A token number along with a given date shall be issued by the primary court, appellate court, and cassation court every day for the appearance of the parties.

**Note:** *Emergencies shall be excluded from the provisions of the above article.*

**Article 10:**

The upper courts shall not hear and adjudicate any lawsuits until the lower courts have issued a judgment on those cases.

**Article 11:**

The criminal lawsuits shall be settled at the place of occurrence of the incident, and the civil lawsuits shall be settled at the place of the defendant's residence. If the defendant is a married woman, the residential place of her husband shall be considered. Likewise, if the defendant is a child or insane, the residential place of their parents and guardians shall be considered.

**Annex:**

Addition of three Clauses as a commentary on Article (11):

- A. Civil and Criminal cases of a foreigner against a citizen of Afghanistan, even if the incident has occurred abroad, can be decided by the defendant's relevant court upon the plaintiff's request.

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- B. If the two persons, the plaintiff, and the defendant, appear in a court as travelers (strangers) for a legal issue by accident, the court shall act to resolve their claims in accordance with Sharia and laws.
- C. Suppose the defendant has lived in the residential place of the plaintiff for one year, even if he does not own a residential place (house) there. In that case, the court of the plaintiff's residence can hear the plaintiff's claim against the defendant and decide in accordance with the regulations.

**Note:** *Emergencies shall be excluded from the provisions of the above article.*

**Article 12:**

No Emirate authority or other official entity shall be able to change the judgment issued by the court.

**Article 13:**

The parties of the case, with their mutual consent, shall be able to abandon their lawsuit for a certain period; the advocates of the parties shall not be entitled to use the rights set forth in this article.

**Article 14:**

The application for appeal or cassation made against the judgments of the primary courts shall not be admitted if the decisions are made based on the admission of the plaintiff or the defendant, or reliable legal deed, or legal exoneration, but suspicious documents shall be excluded from the provisions of this article.

**Annexation to article 14:**

- A. The Legal cases that are considered for appeal or cassation due to suspicious exonerating document or reconciliation, as well as judgments made based on suspicious Admission as set forth in Article (14) of this law, the time limit for appeal and cassation shall be considered from the date of suspicion not from the date of issuance of document or judgment.

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- B. The appellate or cassation courts will consider such documents or judgments only from the point of suspicion and its reasons, and if there is no suspicion, the court shall confirm it.

**Article 15:**

The relevant court shall manage the trial stage of each case within fifteen days. The person who causes the court delay without a reasonable excuse, he/she shall be held responsible.

*Note: Emergencies shall be excluded from the provisions of the above article.*

**Article 16:**

The judgment shall be issued within one week after the proceedings of the trial stage and its announcement.

*Note: Emergencies shall be excluded from the provisions of the above article.*

**Article 17:**

If a loss has occurred because of the delay of the judgment, the aggrieved party can file a lawsuit against the person who caused the delay and loss.

*Note: Emergencies shall be excluded from the provisions of the above article.*

**Article 18:**

It shall be the judges' sole authority to call upon the plaintiff, defendant, or witness; that is to say, Muftis and other court observers shall not be allowed to call upon the plaintiff, defendant, or witness.

**Article 19:**

After the conclusion of the trial stage and cross-examination of the parties, the judge shall remove the parties and witnesses from the court and start the discussion with the court panel regarding the solution of the case.

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Subsequently, if the court panel does not see any obstacle to the issuance of the decision, the judge shall immediately issue a judgment (*fatwa*) and resolve the issue. But if the case is deemed to need more investigation and negotiation, then the court pane shall gather privately in the negotiation room and exchange their opinions.

**Article 20:**

In addition to not having the authority to investigate, the Muftis and other observers of the civil or criminal cases also shall not hold any public discussion between themselves on the subject or beyond that.

**Article 21:**

If the court panel does not reach an agreement because of their argument, they shall set another day for argument, but the parties shall be notified about the given date, and the panel shall continue the negotiation on the issue until the said date.

**Article 22:**

If one of the parties withdraws from negotiation during the trial, doesn't pay attention to the negotiation of the issue, or doesn't answer the questions of the court, he/she shall be warned two or three times if he/she doesn't pay attention, then he/she shall be considered as disobedient, and the provisions of the disobedient shall be enforced.

**Article 23:**

During the court session, no member of the court panel or party shall have the right to express his/her opinion and thoughts that belong to the lawsuit to object to the evidence and reasons that can confirm, weaken, or reject the lawsuit. After the explanation of the parties and the conclusion of the issues related to the trial, the court panel, with the judge's permission, can question one of the parties or both.

**Article 24:**

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The court shall not be allowed to extend the negotiation period for more than ten days.

***Note:** Emergencies shall be excluded from the provisions of the above article.*

**Article 25:**

The presence of the entire court panel is necessary during the negotiation and court sessions. The court's decision shall not be issued in the absence of one of the members of the court panel without a genuine excuse.

***Note:** Emergencies shall be excluded from the provisions of the above article.*

**Article 26:**

The oral negotiations shall not be recognized as an element for the resolution of the case and cannot be included in the decision; instead, they shall be transcribed and kept among other related documents.

**Article 27:**

Once the case is concluded, the judge or a member of the court panel shall write down and explain the reasons for the rejection and acceptance of the claims and defenses of the parties and clarify the issues and matters relied on. The court panel shall collectively sign and stamp it.

**Article 28:**

The court shall not give or explain its decision to the parties or one of them before signing on it.

**Article 29:**

An absolute majority shall issue the decision of the cassation court.

***Note:***

*If the members of the cassation court have an equal disagreement among themselves, whichever party the head of the cassation court or his deputy agrees with, the said side shall prevail.*

**Article 30:**

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If the judgment is made based on oath, the type of oath shall be clearly mentioned in the judgment, whether it is a cross oath, the oath of knowledge, the oath of cause, or the oath of outcome.

**Article 31:**

If the court does not determine the type and form of the oath, or the oath does not comply with the claims of the plaintiff and the defense of the defendant, the higher court can reverse the judgment.

**Article 32:**

The organization and issuance of the judgment shall include the bellow points:

- A. Summary of the claims and the documents/papers that have been submitted to the court; likewise, the appellate and cassation courts shall state the summary of them in their decision if the case is revoked or reversed.
- B. The court's judgment (except that the proceedings are briefly mentioned in the judgment) shall be in accordance with the indictment. Still, there is no problem with the word order of the texts, and the reasons provided by the parties shall be stated briefly.
- C. The title of the court and the type of judgment.
- D. The specifications of the parties or their advocates with their personal information and background.
- E. The form, the text of denial or Admission, the manner of the oath, and the testimony of witnesses.
- F. It shall not be written in the judgment that the witnesses have testified in accordance with the claims of the lawsuit, but rather the whole and exact words of the witness shall be mentioned.
- G. The judgment of the court shall be clear and explicit.
- H. It should contain the cause and contents of the judgment.
- I. If the court rejects the testimony of the witnesses and deems it against the lawsuit, it shall explain the reason for the objection and doubt; likewise, if the objection of the complainant is rejected due to the expiration of the given period, the beginning date and end date of the given period shall be mentioned.

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- J. If the appellate court approves the primary court's decision and rejects the complainant's objections, it is necessary to reject the complainant's objections one by one.
- K. A judgment that relies on Sharia provisions, it is required that its Sharia provisions shall be mentioned clearly and explicitly.
- L. It shall be written clearly and explicitly in the judgment that the judgment was made in the presence of the parties or otherwise.

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## PART ONE

### THE BASIS OF THE LITIGATION

#### CHAPTER ONE

##### Regarding Claim

**Article 33:**

The content of the lawsuit shall be in accordance with the applications, and the following points shall be taken into consideration:

- A. Date of application, including its day, month, and year.
- B. The plaintiff and defendant's names, specifications and background, citizenship, and current and permanent residential place.
- C. Summary of the purpose of the lawsuit with the occurrence date of the incident.
- D. The applicant shall sign or stamp the application and provide his/her *Tazkira* No.
- E. If the applicant is an advocate or executor, he/she is required to present his/her power of attorney or executorship document, insert its number in the application, and explain the court in which the mentioned document is prepared.

**Article 34:**

The legal application shall be submitted directly to the primary court.

**Article 35:**

All the applications submitted to the court, per the explanation of Article (33), should be entered in the particular registry, insert the number and the date on it, and presented to the (head) judge of the court.

**Article 36:**

When the head of the court gives direction on the abovementioned application, a copy of his direction shall be recorded in the registry, and proceedings shall be carried out accordingly.

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**Article 37:**

The plaintiff shall submit his/her detailed indictment to the court along with the explanation of the relevant documents/evidence in two copies.

**Article 38:**

If the court accepts the indictment, the court shall keep one copy of the indictment and send another copy to the defendant and notify him/her with a specified date. Still, if the court does not accept the lawsuit, the plaintiff shall be obliged to correct the indictment.

**Article 39:**

The defendant shall be obliged to send his written response to the court within the specified time.

**Article 40:**

If the defendant doesn't send his/her written response to the court within the specified time on the day of the trial, a trial can be conducted based on his/her oral responses.

**Article 41:**

If necessary, the period of court notification can be extended from the specified period (three days). Still, the reason for the extension shall be mentioned on the back of the notification sheet.

**Article 42:**

In a simple lawsuit, with the parties consent, a written notification may not be required.

**Article 43:**

After completing the steps of the lawsuits, the court, upon the request of one of the parties, may summon the parties to the court and proceed to decide on their case.

**Article 44:**

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If one of the parties does not submit his response sheet within the period determined by the court, the court can summon him/her upon the other party's request.

**Article 45:**

When the defendant responds to the claim, the court clerk shall be obliged to record the same in the presence of one of the court's panel members and submit the same to the court.

**Article 46:**

The plaintiff, based on reasonable excuses, may request the delay of the trial to another day.

**Article 47:**

Whenever one of the parties to the lawsuit requests the other party's documents to get information, the court shall notify the other party about the requested document. It shall include the following points:

- a) The causes for the claim and its rejection
- b) The reasons to prove the claim and reason to reject it.
- c) The applicant's primary and secondary requests and the defendant's objections.
- d) Other requests of the applicant and primary and secondary defenses of the defendant.
- e) A legal description of the arguments of each party.

**Article 48:**

Observing the order/sequence of applications is necessary to summon the parties to the court.

**Article 49:**

Generally, there shall be two copies of the summon sheets/papers, and they shall contain the following contents:

- A) Determine the date, including day, month, and year.

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- B) Name and specification of the person summoned, his/her residence, and country of origin/citizenship.
- C) Determine the date on which the parties shall appear in court.
- D) Specify the subject.

**Article 50:**

When the summon sheet is handed over to the person summoned, it is necessary to get his/her signature on the primary copy of the summon.

**Note:** *Emergencies shall be excluded from the provisions of the above article.*

**Article 51:**

When the person summoned brings an excuse that he/she doesn't have the stamp or he/she is illiterate, the issue shall be mentioned on the second copy of the summon, and the signature of one of the following persons shall be taken:

- A. *Malik* (representative) and elder of the village.
- B. In the absence of *Malik* and the village elder, the signature of two or three influential people in the village is sufficient.
- C. If the person summoned is employed, his supervisor's signature is sufficient.
- D. Signature of *Wakil-e-Guzar* (representative of the street) in the city area or two of his/her neighbors.
- E. If none of the abovementioned persons are available, the person summoned himself/herself shall be called to the court.

**Article 52:**

If the abovementioned orders/points are not observed, the summon paper shall not be accepted/proceeded.

**Article 53:**

In case of neglecting the above guidance, the person in charge of summon shall be held liable.

**Note:** *Emergencies shall be excluded from the provisions of the above articles (51, 52, 53).*

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**Article 54:**

If the residence of the person summoned is in the court area, the minimum period for his/her attendance to the court shall not be less than three days, and if the residence of the person summoned is beyond the court area, in addition to the abovementioned period, it shall observe the distance of his residence to the court.

**Article 55:**

The urgent lawsuits shall be excluded from the provisions of the above article, and in articles of urgency, the court can summon the summoned parties to court on the first or the second day of the lawsuit.

***Note:***

Urgent lawsuits require immediate proceedings, and the lapse of time will destroy the main subject matter of the lawsuit, or delay the lawsuit will cause a total loss.

**Article 56:**

If there are strong evidence and official documents, if necessary, the court, upon the request of the plaintiff, may take a guarantee from the defendant that he/she will not inflict damage to the subject matter of the case.

***Explanation:***

Considering that the plaintiff's allegations can be substantiated through evidence and documentation, to prevent the defendant from causing harm to the case's subject matter before the court reaches a final decision, the defendant may be required to furnish a guarantee.

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## CHAPTER TWO

### COURT HEARINGS AND MAINTAINING DISCIPLINE

**Article 57:**

All lawsuits shall be heard in open courts.

**Note:**

The openness of the court hearings shall be in the following order:

- A. Convening judicial sessions on days other than holidays.
- B. Convening judicial sessions in their designated place.
- C. Allowing the public to attend the court.

**Note:** *Emergencies shall be excluded from the provisions of the above article.*

**Article 58:**

The head of the court must maintain the order and discipline of the court during the judicial hearing.

**Article 59:**

If one of the parties in the lawsuit interrupts, invalidates, or denies the claims of the other party during his statement or before finishing his statement or contempt/humiliates him using rude words, the judge or head of the court shall prevent the said party from there.

**Article 60:**

The persons who attend the court to hear the proceedings of the trial shall observe the following issues:

- A. They are obliged to listen to the trial proceedings silently.
- B. Obey the disciplinary orders of the head of the court.
- C. Each of the audience shall be expelled from the court on the following grounds:
  - 1. Disobedience to the administrative disciplines of the court.

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2. Perform an act or gesture that implies approval or disapproval, or dictation of any party or head of the court or panel of the court, or decision or order of the court.
3. Causing a commotion in the court.

**Article 61:**

If one of the officials of the court causes a commotion or disruption to the court, in addition to the application of Clause (C) of Article (60), he/she shall be sentenced to Sharia (Tazir) punishment.

**Article 62:**

The persons who take any action in the court that contempt the prestige of the court panel and official or cause intimidation and threats against them, since members of the court become plaintiffs, the incident shall be reported to the government and the relevant authorities for legal investigation. The offender will be handed to them, and another parallel court will decide.

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## CHAPTER THREE

### APPEARANCE OF THE PARTIES OF THE LAWSUIT AND SPECIFICATION OF THE SUBJECT MATTER OF THE LAWSUIT

**Article 63:**

The plaintiff and defendant shall be obliged to appear in court in person or through their advocates, executors, or legal guardians, along with their relevant documents.

**Article 64:**

An advocate contract/action in a court shall be valid until the decision of that court is issued, except for the following cases:

- A. It has been specified in the advocate's contract that the said person is also his/her advocate in filing the case, objection against the verdict, and appeal to a higher court and the cassation court.
- B. It has been specified in the advocate's contract that the said person is his/her advocate in the appellate case until the last stage.
- C. It has been specified in the advocate's contract that the said person is his/her fully authorized advocate in every case.

**Article 65:**

The court staff cannot present in the court as an advocate.

**Article 66:**

Court staff shall be exempted from the provisions of Article (65) in the case of their spouse or one of their parents or ancestors, children, and grandchildren.

**Article 67:**

The court staff may present their own lawsuit in the court or represent the lawsuits of the persons enlisted in Article (66) as advocates, executors, and legal guardians.

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**Article 68:**

The party who appears in the court on the specified day, he/she shall be taken by the responsible officers to the courtroom based on the specified order. The responsible officers shall examine his/her case in the following order:

- A. The court shall investigate which one of the parties is represented by himself/herself and which is represented by an advocate, executor, or legal guardian.
- B. The court officer shall check the attorney letter (letter for authorization) of the party whom an advocate represents and keep it with the case documents.
- C. After considering the provisions of Clauses (A) & (B) of Article (68), the following procedures shall be taken into action:
  1. The application of the plaintiff shall be read out along with its form and all other documents.
  2. The documents of the defendant shall be read out.
  3. The statements of the plaintiff and defendant shall be heard, respectively.

**Article 69:**

After the court examines the prepared documents of the case, it shall take the following actions:

- A. Summons the parties to attend the court on a specified date.
- B. Read out the mentioned documents in the presence of parties once again.
- C. If it is not necessary to read out the documents once again, or after reading the documents, the plaintiff shall first be given time to present his statements with their main and secondary claims and explain their contents.
- D. After presenting the plaintiff's statement, the defendant shall be given time to express his/her defense statement and objections with their contents.
- E. The steps of (B) and (C) may be repeated if required.



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- F. The head of the court or one of the court panels authorized by the head of the court may ask any of the parties in case of ambiguity.
- G. The court clerk shall be obliged by order of the head of the court to record and note down the statements beyond the form and documents that are effective in the court's decision, such as Admission and acquittal. At the end of the court session, the parties and head of the court shall sign it.

**Article 70:**

If one of the parties presents documents during the court proceedings that were not included among the documents that the court had sent to the other party within the specified period, the court shall not accept the said documents without considering the following points:

- A. The court shall be convinced that the said documents' presence was impossible then.
- B. There was no need to submit the said documents at that time.
- C. Giving other reasonable excuses for not presenting the said documents.

**Article 71:**

In the cases set forth in Clauses (A), (B), and (C) of Article 69, the court shall be obliged to receive the said documents and postpone the trial to another time, considering the delivery of the said documents.

**Article 72:**

The opposing parties can change or amend their indictments and defense statements that have been submitted to the court within forms for notifying the other party, provided that the said amendment shall not change the nature of the indictments and defense statements in terms of increase or decrease.

**Article 73:**

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The increase and decrease in the indictment arising from benefits and damages shall be excluded from the provisions of Article (72), and the plaintiff shall be allowed to present them as part of the main claim.

**Article 74:**

It is required that the opposing parties shall submit all their claims and defenses, including their initial objections, together to the court at once.

**Article 75:**

The opposing parties shall not be allowed to ask the court to decide on each part of the claims, defenses, and objects stated in an indictment.

**Article 76:**

The court shall issue a single judgment for all the components of the parties' indictments, defense statements, and objections.

**Article 77:**

In cases where it is necessary to present the account statement or ask the expert opinions, the court first shall issue a preliminary summon and then decide based on the lawsuit.

**Article 78:**

If the identity of the plaintiff or the defendant is in doubt before the court, and the documents that can prove his identity are not available, in that case, the court shall inquire about his/her name, specification, industry, and place of residence from the elders of the village, representative of the group, and supervisor of his/her office.

**Article 79:**

A lawsuit shall not be transferred from one court to another after the proceedings of the lawsuit.

**Article 80:**

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Whenever the court finds any ambiguity in the claim of one of the parties, the court may ask for the necessary explanation and clarification orally and in writing.

**Article 81:**

Whenever it is not possible to complete the lawsuit and issue a judgment in the first session, if the defendant doesn't have a stable place of residence, the court shall take the following actions:

- A. Determine the defendant's residence and record the same in the registry book.
- B. If the defendant refuses to determine a place of residence, if there is a fear of his/her escape, based on the request of the plaintiff, the court shall ask the defendant to provide a guarantor to present him/her in court if necessary.
- C. If the defendant refuses to provide a guarantor, the court shall detain him/her and proceed with his/her case on a specified date.

**Note:**

*The decision of the judge can implement the provision of Clause (C) regarding detention.*

**Article 82:**

If one of the opposing parties dies during the trial, upon the request of the other party, the court shall summon the heir of the deceased party, and the trial shall resume from the point where it stopped.

**Article 83:**

The court proceedings and appendices shall be carried out per Book (14) on Actions and Book (15) on Evidence and Administration of Oath of *Al-Mujallatul Ahkam*.

**Article 84:**

If the plaintiff asks for a timeout to prove his/her claims, the court shall guarantee him/her the necessary timeout.

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**Article 85:**

If there are some documents related to the claims of the plaintiff or defense of the defendant in the official/governmental offices, which referring them is necessary, a timeout shall be given to obtaining them.

**Article 86:**

If the opposing parties cannot obtain the documents mentioned in Article (85), in that case, the court shall officially request to obtain them.

**Article 87:**

The documents and evidence submitted to the court to prove a claim; if the other party denies these documents and evidence, the matter shall be decided based on Part Four of Book (13) on Admissions of Al-Mujallatul Ahkam.

**Article 88:**

If the documents submitted to the court during the trial appear fake, in addition to discrediting the said documents, the fakeness of the document shall be reported to the relevant authority.

**Article 89:**

The counterclaim, which the plaintiff or the defendant submits during the trial, the court shall handle within the main lawsuit proceedings.

**Article 90:**

The preliminary actions of the main lawsuit, such as a new indictment and notifying the opposite party, are not necessary for counterclaims.

**Article 91:**

In complex lawsuits related to the calculation and examination of offices and documents or other defects that need investigation, the court shall assign a delegation, a court member, or an expert to investigate and report their findings to the court.

**Article 92:**

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The court shall read the findings of the persons mentioned in Article (91) in the presence of the parties; if required, the court shall decide the case after hearing and verifying the parties' statements.

**Article 93:**

In cases where the parties may come to a settlement, the judge shall advise them to determine their mediators per the provisions of Book (12) on Settlement and Book (17) on the Administration of Justice of *Al-Mujallatul Ahkam*.

**Article 94:**

If the parties disagree with a settlement, the court shall proceed with the case and draw a judgment.

**Article 95:**

When the parties agree with the settlement and settle the case themselves, a Sharia settlement letter shall be written, and their issues shall be resolved.

**Article 96:**

The plaintiff or the defendant can request the non-presence of one of the members of the judicial panel in the presence of one of the following grounds:

- A. That member of the judicial panel can get financial benefits from this lawsuit.
- B. That judicial panel member is a relative of one of the opposing parties.

**Note:**

The father and grandfather, children, grandchildren, maternal aunt, maternal uncle, paternal aunt, paternal uncle, and father-in-law are considered relatives.

- C. If there is a personal enmity between one of the judicial panel members and one of the opposing parties.
- D. If a lawsuit exists between one of the judicial panel members and one of the opposing parties.

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**Article 97:**

The request of the plaintiff or the defendant regarding the non-presence of the judicial panel member shall be investigated. If it is valid, it shall be accepted; if it is not, the requestor shall be punished.

**Article 98:**

If a dispute or disruption in a court is possible, the lawsuit can be transferred to another court.

**Note:**

It shall be the discretion of the cassation court to transfer the lawsuit from one court to another.

**Article 99:**

The clerk shall be obliged to consider and comply with the following issues during the trial:

- A. Record the names of the head of the court and members of the judicial panel; if there is an interpreter, record the interpreter's name and statements of the parties.
- B. Record the names of the witnesses and their full specifications.
- C. Record the summary of the documents provided by the parties.
- D. Record the seizures carried out by the court.
- E. Record the summons carried out by the court.

**Article 100:**

If the trial is not completed and it is postponed to another day, the activities of other days shall also be followed per Article (99) and shall be used as the basis of the court decision.

**Article 101:**

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The documents and papers set forth in Articles (99) and (100) shall be recorded like other documents and shall be stored at the end of every two months.

**Note:**

*Emergencies shall be excluded from the provisions of the above article.*

**Article 102:**

Whenever the investigation and scrutiny of the lawsuit are considered sufficient, the head of the court shall take the following steps:

- A. The parties shall be asked if they have anything else to say.
- B. When the parties answer that they have nothing more to say, then the court shall conclude the trial and inform the same parties.
- C. After the conclusion of the trial, the parties shall not have the right to say anything.

**Article 103:**

If the parties have any objections, they shall submit their objections to the head of the court in a separate paper.

**Article 104:**

The statements of the objection shall be read out during the negotiation session; if further investigation is required, the head of the court shall announce the restart of the trial, carry out the required investigations and scrutiny, and announce the conclusion of the trial after completing the necessary investigations.

**Article 105:**

The office of each court shall have registry books per the descriptions below.

**A. CLAIM REGISTRY (INCOMING = OUTGOING)**

**Article 106:**

The claim registry shall contain the following points:

- 1) Serial Number

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- 2) Date of application
- 3) The names of the parties
- 4) Full specifications of the parties, including their nationality and place of residence
- 5) The nature of the lawsuit
- 6) The registration date of the application.

## **B. SUMMON REGISTRY**

### **Article 107:**

The summon registry of the courts shall contain the following points:

- 1) Date of summons form.
- 2) The name of the receiver of the summons form.
- 3) Determine the date for the appearance of the parties.
- 4) Summary of the lawsuit.

## **C. DOCUMENTS REGISTRY**

### **Article 108:**

The documents registry of the parties available in the court shall contain the following details:

- 1) The type and nature of the parties' documents.
- 2) Summary of the contents of the documents.
- 3) The number of the documents' pages.

### **Article 109:**

The detailed contents of the document's registry shall be stamped and signed by the head of the court.

## **D. COURT DECISIONS REGISTRY BOOK**

### **Article 110:**

The court decisions and document registries shall contain the contents of the decisions, which are signed by the head of the court.



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## **E. DECLARATIONS REGISTRY**

### **Article 111:**

The declarations registry shall contain all the decisions issued by the court and delivered to the parties.

### **Article 112:**

The clerk/recorder of the declaration registry shall be obliged to hand over a copy of the court decision to the parties; this registry shall contain the following details:

- 1) The name of the plaintiff and defendant.
- 2) Summary of the lawsuit.
- 3) Proceedings of the trial.
- 4) The decision of the court.

### **Article 113:**

If a copy of the court decision is missing from one of the parties, the clerk/recorder of the declaration registry shall be obliged to give him/her another copy upon his/her request.

## **F. COURT INCOMING CORRESPONDENCES REGISTRY**

### **Article 114:**

All the court registries shall be arranged on a volume basis, with the page numbers; the head of the court shall sign the first and last pages.

### **Article 115:**

The head of the court shall be obliged to review and inspect all the relevant court registries in a monthly order to avoid the occurrence of any violation or defect by relevant court officials on court registries.

### **Article 116:**

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No change or damage shall occur in the contents of the courts' registries. Whenever there is a need to add or remove any word, it shall be removed clearly and shall be signed by the officer of the court and head of the court.

**Note:**

*Emergencies shall be excluded from the provisions of articles (105) to (116).*

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## CHAPTER FOUR

### PRIMARY COURTS REFERRALS

**Article 117:**

A single lawsuit shall not be filed in two courts simultaneously.

**Article 118:**

During the main proceedings of the lawsuit in the court, if one of the parties pretends that the original lawsuit is in progress in another court or states that the lawsuit is related to another lawsuit that is in progress in another court and requests the transfer of the lawsuit to that court, in this case, the lawsuit may be transferred to the first court, provided that if the legal jurisdiction permits.

**Article 119:**

If one of the parties has any objection regarding the documents and papers of the opposing party, it shall be notified to the court before the end of the trial. But the said objections cannot be considered in the same court after the issuance of the court decision.

**Article 120:**

After going through the stages of the lawsuit and reaching the stage of issuing the court decision, changing the essence (*the death of any party*) or changing the attributes of the parties (*maybe the party hires an advocate to follow the rest*) shall not prevent the issuance of the court decision.

**Note:**

The meaning of changing the essence is death, and the meaning of changing the characteristics is insanity and bankruptcy.

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**Article 121:**

During the litigation period between the parties, if a third person files a petition for his right and competency to intervene in the relevant lawsuit in court, his/her petition may be considered. Still, if the fundamental stages of the decision have been completed, the announcement of the court decision shall not be postponed based on this petition.

**Article 122:**

The persons who have submitted a claim to the court but don't appear before the court regarding their claim within two months shall be considered invalid, and their lawsuits shall not be heard without submitting a new petition.



## **CHAPTER FIVE**

### **Basis for Judgment**

**Article 123:**

The basis for rendering a judgment includes the following elements:

- 1) Admission
- 2) Evidence (documents, witnesses, absolute evidence, and circumstantial evidence)
- 3) Oath (swearing)
- 4) Retraction

### **Admission**

**Article 124:**

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The issues of Admission and its related provisions shall be enforced in accordance with Articles (1572) to (1612) of *Al-Mujallatul Ahkam*. The four grounds of judgment during the trial proceedings shall be considered as below:

**Article 125:**

After a proper lawsuit is filed, the court shall take the following steps:

- A. Ask the defendant to respond to the plaintiff's claims.
- B. If the defendant confesses the claims, he/she shall be convicted.
- C. If the defendant denies the claims, it shall be the plaintiff's responsibility to prove his/her claims.
- D. If the plaintiff cannot prove his/her claims, he/she has a right to refer the oath to the defendant; upon his request, the court shall ask the defendant to take an oath.
- E. If the defendant swears the oath, the judge shall order the plaintiff to give up his claim upon the defendant.
- F. If the defendant retracts from swearing the oath, except in *Qisas-related cases*, he/she shall be convicted of what has been claimed against him/her.

**Article 126:**

The defendant shall have the right to provide a proper defense statement against the plaintiff's claims.

**Article 127:**

Whenever the defendant responds to the claims of the plaintiff and states that, for example:

- A. The plaintiff has withdrawn his claims.
- B. The defendant has submitted the demanded claims to the plaintiff; it can be heard.

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**Article 128:**

If the defendant fails to prove his defense, he shall have the right to call upon the plaintiff to take the oath.

**Article 129:**

If the plaintiff takes an oath against the defendant's defense from delivery of the subject matter and other issues, the action brought by the plaintiff is maintained.

**Article 130:**

If the defendant refuses to take the oath in an ambiguous lawsuit, he shall be obliged to express (confess).

**Article 131:**

In expedited lawsuits, after submission of the plaintiff's claims, the defendant shall be summoned, and the plaintiff's claims shall be addressed, and there is no need to go through procedures of the court like other lawsuits.

**Article 132:**

Likewise, during simple lawsuits, there is no need for an argument and trial like other lawsuits.

**Article 133:**

The debt claims included in the court's deed, officially approved by the relevant authorities, are considered simple lawsuits.

**Article 134:**

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Whenever a person claims debt against another person, states that he/she doesn't have any proving evidence against the defendant, and asks the defendant to take an oath, this type of oath is considered a simple lawsuit.

**Article 135:**

In expedited and simple lawsuits, the court shall be convinced with the announcement of claims and proving evidence, and there is no need to submit a form and announce it to the defendant, as required in other lawsuits.

**Article 136:**

If the subject matter of the action is not present before the court, or it cannot be brought before the court, the plaintiff shall give a description and state the value thereof.

**Article 137:**

The issue of the lawsuits shall be considered and decided in accordance with Chapter Four and Book (14) of Al-Mujallatul Ahkam.

## EVIDENCE

**Article 138:**

Evidence are three types:

- A. Witnesses (testimonies)
- B. Documents
- C. Presumptive evidence

**Article 139:**

Testimony shall be considered the most powerful and definite evidence after Admission, which means giving information about the truth with the wording of *Ash'hadu* (I swear), in which the Sharia testimony requirements shall be considered.

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**Article 140:**

The witness's testimony shall be heard individually in the presence of the court panel and the parties.

**Article 141:**

The court shall be obliged to determine the complete identity of the witness before hearing his testimony.

**Article 142:**

If the plaintiff provides the complete identity of witnesses in response to a query by the court before the statements of the witnesses in front of the judicial panel and the party to the claim, but at the time of appearance, the plaintiff brings other witnesses to the court, the court shall not accept those witnesses.

**Article 143:**

If a plaintiff has stated that he has no witnesses at all and then he presents a witness, the said witness shall not be accepted.

**Annex**

Addition of five following Clauses to Article (142) of the Law on Administrative Procedure of Courts:

- A. If the plaintiff uses the sentence (I have no witness at all) or the words that indicate the same meanings, such as: if he/she is given as much as enough time, he/she cannot present any witness, in that case, if he/she presents any witness after the primary court decision, it shall not be accepted, and the primary court decision shall be final.
- B. When the decision becomes final, if the plaintiff finds the subject matter of the lawsuit in the hands of the defendant, or the defendant confesses on the subject matter of the lawsuit in favor of the plaintiff after the above decision, the claim of the above property or the said Admission will be heard in the judicial courts in accordance with the regulations.



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- C. If the plaintiff states that his/her witnesses are not available in the city (areas related to the court) and doesn't fail to present witnesses, the primary court shall give him necessary time per Articles (84) and (145), then the decision shall be made under oath.
- D. If the plaintiff demands to present witnesses after taking an oath, he/she may present witnesses within the appellate period, but the decision mentioned above cannot be recognized as an appellate decision, and the primary decision cannot acquire the status of appellate.
- E. Since the secondary decision of the primary court after the presence of witnesses is considered a complete form of the first decision if the plaintiff presents witnesses and the defendant doesn't accept it, it can be appealed. Still, the first decision shall be final if the plaintiff fails to present his/her witnesses up to the second and third judicial sessions.

**Article 144:**

Once it is known that the presented witnesses are the same people who were introduced before, the court shall give them a chance and hear their testimony.

**Article 145:**

In legal cases, when one of the witnesses attends the court at the appointed time, and it is found that that the other witness was unable to attend due to Shariah excuses, in that case (except *Hudud* cases), the court shall hear the statements of the present witness and give another time for appearing the absent witness.

**Article 146:**

The deadline given by the court for appearing witnesses shall be determined as necessary and consideration of his distance from the court.

**Article 147:**

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If the plaintiff, due to illness or other Sharia excuses, requests the court to hear the testimony of the witness and transcribe it at the residential place of the witness, the court shall send one of its members who have judicial jurisdiction to the residential place of the witness to hear the testimony of the excused witness in the presence of the parties, and transcribe the testimony, sign and stamp it, and execute it in accordance with the Sharia provisions.

**Article 148:**

The testimony of the witnesses shall be recorded in detail by the court and read out in the presence of witnesses, signed, and stamped by them.

**Article 149:**

The quorum of testimony, the manner of testimony and its primary conditions, and conformity of witness for testimony with the lawsuit, the disagreement of witnesses and their verifiers, the withdrawal of witnesses from testimony, and the preference of witnesses in the case of two persons and one thing, shall be executed in accordance with Book (15) on *Al-Mujallatul Ahkam* on evidence.

## DOCUMENTS

**Article 150:**

The documents include two types of obligations and contracts. The documents that can be considered the base of Sharia rulings include the official documents that have been officially prepared, endorsed, and signed by specified officials.

**Article 151:**

The court shall carry out the endorsement and registration of official documents. The contracts and obligations contained in these official documents will be concluded in the presence of a judicial panel.

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**Article 152:**

The court shall prepare the official documents set forth in Article (151) under legal conditions in the presence of the parties and witnesses who are qualified to testify. It will be read out to parties, signed by the parties and witnesses, and finally signed and stamped by the court.

**Article 153:**

The documents signed and stamped by the judicial panel shall be registered in the court registry after necessary approvals. The judicial panel and the parties shall also sign its registration.

**Article 154:**

Article 154:

In the event of typographical errors within the documents referenced in Article (152), they must be highlighted while ensuring the original and incorrect text remains readable. Corrections should be made at the document's conclusion and signed by the involved parties, witnesses, and the court panel.

**Article 155:**

In all documents of the courts, it is necessary to have two witnesses who are qualified to testify.

**Article 156:**

If the parties or their witnesses have legal personality, for example, they are called by the name of an institution, branch, or department, in that case, the presence of their legal representatives that are introduced officially is enough.

**Article 157:**

The introduction of the representative and his/her authority by their organizations to carry out transactions shall be confirmed by an official document.

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**Article 158:**

The documents that prove the identity of the legal representative shall be kept in the court office.

**Article 159:**

If people are known to the court, it doesn't require any identification document to prove their identity.

**Article 160:**

If the parties or their witnesses are illiterate and do not have a stamp, in that case, the court can be convinced with the fingerprint and the confirmation of their witness, and the status of their illiteracy shall be recorded in the document.

**Article 161:**

The official documents shall be valid in favor of the confessor, his/her heir, and successor.

**Article 162:**

The official document shall be considered sufficient as obligatory for the persons who were introduced in official documents as witnesses and finally claimed ownership of the same thing.

**Article 163:**

The private agreements and secret contracts were made during the preparation of the official document (or after that) by some of the parties regarding the termination of all or some of the contents of the official document, it can be observed in their own rights, and it shall not affect the other parties of the contract.

**Article 164:**

The documents not prepared based on stipulated conditions and requirements shall have the status of ordinary documents.

**Article 165:**

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The lawsuits against official documents shall depend on an official document or the defendant's Admission.

**Article 166:**

The judge cannot prepare a security/official document for his father, grandfather, children, brother, sister, wife, and servant or accept them as witnesses, experts, or witnesses of an accident or interpreters in a court where he/she is employed in.

**Article 167:**

A judge's relative's security/official documents shall be prepared in the neighboring/parallel court.

**Article 168:**

The written documents, such as official assignments (*Hawala*) and decrees of the Emirate, which have an archive record, and courts announcements and judgments, which are free of fraud and fabrication, and are registered in the court's registry book, and the documents that the court or Emirate's offices have issued shall be considered as proving documents and are sufficient to prove the claims of the plaintiff.

**Article 169:**

The customary documents that have been written, signed, and stamped by the parties, if the parties confirm their stamp and signature, they shall be valid as official (Sharia) documents.

**Article 170:**

The persons for whom the customary documents are issued with their stamp and signature shall be obliged to confirm their stamp and signature or deny it. In case of silence, it shall be considered denial like other claims.

**Article 171:**

The heirs of the abovementioned persons shall not be forced to confirm the stamp and signature of the testator. But they have the right to confess, deny or state that they have no knowledge about it.

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**Note:**

*If the handwriting and stamp of the deceased person were famous, it should be considered valid.*

## **Absolute Presumption**

**Article 172:**

An absolute presumption is something that can be used as an example to prove a main subject, and it is conclusive, and it makes an unknown thing known.

***Note 1:***

If someone is leaving a house precipitately with a blood-stained knife in his hand, and there is no one else in the house, then if a victim is found after the said person leaves the house who is killed by a knife, the current situation is an absolute presumption that the said person is a murderer.

***Note 2:***

If someone kills another person in his own house and declares that the victim was a debauchee, a thief, or a fornicator, and states that he killed the victim during his action, or states that the victim entered his/her house intending to kill him/her, hence if the victim is really famous to debauchery and thievery, his fame shall be considered as an absolute presumption.

***Note 3:***

If a person observes the exercise of ownership by another person on his property and keeps silent and doesn't claim ownership for himself despite the absence of legal excuses such as the age of minority, insanity, etc., and then if he/she claims possession of the same thing, his/her claim of ownership shall be neglected based on the indication of absolute presumption.

**Article 173:**

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The proof of a claim shall be enforced in accordance with the provisions of *Al-Mujallatul Ahkam*.

## **OATH AND DENIAL OF TAKING AN OATH**

### **Article 174:**

The oath and denial of taking an oath shall be carried out in accordance with the provisions of *Al-Mujallatul Ahkam*.

### **Article 175:**

In cases where the plaintiff doesn't respond to the defendant's counterclaims, the plaintiff's claims shall be rejected, and he will be considered a convicted party.

### **Article 176:**

If the plaintiff doesn't demand the defendant to take an oath, he/she shall be convicted.

### **Article 177:**

Taking an oath or denying taking an oath shall be valid in the court in the presence of the opposing parties.

### **Article 178:**

It shall be the authority of the defendant to take an oath or deny taking an oath, and the denial of the advocate shall not be valid.

### **Article 179:**

Should the necessity arise for an oath to be taken outside the court due to valid reasons based on Sharia law, such as illness or observance of Hijab,

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the judge shall designate either a representative or a judicial member of the court to administer the defendant's oath at their residence, with both parties present.



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**APPEAL**  
**CHAPTER SIX**  
**OBJECTIONS**

**Article 180:**

The objections that were made against the judgment of the primary court shall be resolved in the relevant appellate courts.

**Note:** The objections of the complainant against the judgments of the primary court shall be submitted through an application form.

**Article 181:**

The application letter, prepared by the unsatisfied party, shall contain the main issue of the lawsuit, the decision of the primary court, and the reasons for the appeal.

**Article 182:**

The application letter shall be submitted directly to the appellate court.

**Article 183:**

If the unsatisfied party appeals and explains his/her dissatisfaction within the time limitation set for appeal on the judgment of the primary court to parties, his/her appeal shall be accepted.

**Article 184:**

No appeal shall be accepted after the fixed time limitation expires, but the primary court's decision shall be enforced.

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**Article 185:**

The office of the appellate court shall receive the objections and documents of the complainant and inform the opposite party in writing after the judge reviews it and receive a written response from the party.

**Article 186:**

After completing the file of the objections and questions and answers, the parties shall be asked to attend the court on a specific date according to their turn.

**Article 187:**

Before reading the details of the case, first, the court shall check the date of appeal and whether it has been submitted on time and in accordance with rules and regulations.

**Article 188:**

If the objections of the complainant are per the regulations and specified date, the appellate court shall review the documents containing the questions and answers of the parties and files of the case on the same date or the next day to find out whether the objections and counter-answers have been made under the specified rules and regulations.

**Article 189:**

After considering all the documents of the case, the appellate court either approves the primary court's decision or annuls and revokes the primary court's decision and orders to proceed with the case for the second time.

**Note:**

If the appellate court annuls the decision of the primary court, the case shall be referred to the same court in accordance with Article (1838) of *Al-Mujallatul Ahkam*. If the same court's decision is annulled for the second time, the appellate court itself shall proceed with the case and decide on it.

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**Article 190:**

If the complainant doesn't attend to the appellate court within the specified time for resolution of his/her objections, without having any legal excuses, the court shall issue its decision based on the claims of the complainant, and the decision shall be recorded in the court registry and notified to relevant authorities. In this case, the complainant's rights shall be declined, and he/she shall have no right to object to the announcement of the issue.

**Article 191:**

If the other side of the complainant has not attended the court within the specified time, the complainant's right to objection shall still be valid.

**Article 192:**

If the complainant's rights have been declined due to the expiration of the time limitation, if the decision of the primary court affects the rights of a third person (other than the parties), and the said person was absent and has not been summoned by the court, he or his advocate did not attend the court, and has not submitted any petition, in this case, the right to object shall remain for the third person, and the expiration of the appellate time of the first opposing parties shall not affect this person.

**Article 193:**

The third person mentioned in Article (192) can object to decisions of the primary or appellate courts.

**Article 194:**

The right of the third person (other than the opposing parties) to object against the decision of the primary court shall have no effect after the issuance until the execution of the primary court decision and his silence without any legal excuse after the appellate court decision.

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**Article 195:**

In the judgments issued by the primary and appellate courts, if the objections are not accepted against them, a re-trial can be requested due to the existence of one of the following reasons presented by one of the opposing parties or their legal representatives.

- A. If the primary or appellate court issues two opposite judgments on the same case.
- B. If the deception and conspiracy of the applicant are arranged, it.
- C. If the winning party confesses to the forgery of the document, that is the basis of the court's judgment, or the document's forgery is proved before the court.
- D. If the court succeeds in obtaining a document that is the subject/base of the judgment, and the opponent has already concealed it directly or indirectly.

**Article 196:**

If, as a result of the consideration and review of the appellate court, it is found that the judgment of the primary court was made in accordance with the provisions of law, then the appellate court shall explain in detail the reasons for the lack of the ground for objection and appeal. The judgment of the primary court shall be confirmed.

**Article 197:**

If, as a result of a review, it is found that the objections for appeal are effective in the judgment of the primary court, or the judgment of the primary court has been issued contrary to the provisions of law, the appellate court shall invalidate the judgment of the primary court and proceed to issue a lawful judgment.

**Article 198:**

The basis of the appeal is to give the unsatisfied party a chance to refer to the appellate court if he/she is not satisfied with the first judgment.

**Article 199:**

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According to Article (198), the judgment issued by the primary court cannot be annulled by another primary court that is similar to the first court. Still, the annulment of the said judgment can be done by the superior court.

**Article 200:**

The appellate courts shall not settle cases directly without the previous decisions of the relevant primary courts.

**Note:**

According to the current situation, besides an appellate court, a general primary court is necessary to carry out the preliminary procedures when required.

**Article 201:**

If the appellate court, at the request of the opposing parties or directly requires summoning other persons in the court whose claims with the plaintiff have not been decided in the primary court, and the appellate court feels him/her as a defendant, the appellate court shall order on the annulment of the judgment and return the case to the primary court.

**Article 202:**

If the plaintiff and defendant give an official document to the competent primary court for non-appeal, their appeal rights shall be revoked.

**Article 203:**

If the cash amount of the judgment issued by the primary courts has not been determined, or its price cannot be determined, or the opposing parties have not determined it, it can be heard in the appellate court.

**Article 204:**

If lawsuits that the subject matter of the case doesn't have a specific price, such as setting boundaries and other distances, can be heard in the appellate court.

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**Article 205:**

If the lawsuit has different aspects, it cannot be separated for appeal without requesting for appeal on the whole of them.

**Article 206:**

The decisions and orders issued by the primary court regarding its jurisdiction on hearing a case can be heard in the appellate court.

**Article 207:**

If the decision of a matter has been transferred from one primary court to another primary court-based legal jurisdiction of the court, the request for appeal shall be accepted by the appellate court of the relevant province.

**Article 208:**

The orders issued regarding the expiration of the claim period for appeal or its non-expiration can be heard in the appellate court.

**Article 209:**

In cases of dissatisfaction, the appeal can be filed by the plaintiff and defendant or their legal representatives, such as heirs, executors, attorneys, company directors, the officials of the Emirate, or the public prosecutor.

**Article 210:**

After the expiration of the appeal deadline, the right of the parties to appeal shall be revoked, but if no appeal is filed by the legal representatives of the opposing parties within the deadline, the people who have suffered a loss shall have the right to initiate a lawsuit against the legal representatives in the primary court.

**Article 211:**

Although the right to appeal will be revoked with the expiration of the appeal deadline, if one of the opposing parties has already appealed, the

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other party shall have the right to demand an appeal until the termination of the appeal, even though the appeal deadline has expired.

**Article 212:**

The appeal of the case shall be made by filing an appeal directly to the appellate court.

**Article 213:**

The beginning of an appeal shall be considered from the date of submission of the appeal and registration of the same in the appellate court.

**Article 214:**

The appeal letter submitted to the appellate court shall contain the following details:

- A. The name and details of the appellant and his/her place of residence.
- B. The name and details of the opposing party and his/her place of residence.
- C. The subject matter of the lawsuit.
- D. The orders and judgment of the primary court, along with the name of the court.
- E. The date of issuing the verdict of the primary court.
- F. The date on which the verdict is announced to the appellant.
- G. The reasons and causes of appeal.
- H. Demanding the summon of the opposing party or his/her advocate within the specified legal deadline.

**Article 215:**

The appeal letters that do not meet the conditions mentioned in Article (214) are returned; in this case, if the legal deadline of appeal is not over, the appellant can renew the appeal letters and complete its deficiencies.

**Article 216:**

The appellant shall be obliged to write his/her appeal indictment sheet and submit it to the court within (10) days from the submission of his/her appeal application; this sheet shall contain the detailed objections and claims of the

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appellant and submitted to the appellate court together with appeal application set forth in Article (214). In this sheet, the appellant requests that after the appellate court approves his/her appeal application, his/her appeal indictment shall be notified to the opposing party and send the specified summon sheet to the opposing party to attend the court on the specified date.

**Note:** *Emergencies shall be excluded from the provisions of the above article.*

**Article 217:**

When the appeal indictment, as detailed in Article (213) together with the summon sheet are communicated to the opposing party, the opposing party (appellee) shall be obliged to prepare his/her response against the appeal and submit the same to the court before the specified day of the trial.

**Article 218:**

Each of the parties shall be obliged to appear in court in person on the appointed date of the trial or send his/her legal representative.

**Article 219:**

In the cases where the court issues a verdict by default (ex-parte / judgment in absentia) in accordance with Sharia provisions, the convicted person shall have the right to object against the court's verdict and demand an appeal to causation court.

**Article 220:**

If the appellant submits a withdrawal of his appeal to the court through an official document within the specified period of appeal, the court shall issue an order on the expiration of his/her appellate right. In this case, the verdict of the primary shall be final.

**Article 221:**

All the principles and rules of trial proceedings that are enforceable in the primary court shall also be enforceable in the appellate court.

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## **THE COURT OF CASSATION**

### **GENERAL PROVISIONS**

#### **Article 222:**

The court of cassation is the final authority that, based on the petitioner's application or based on the legal jurisdiction (reverse or abortion), clarifies the validity of the primary and appellate courts' decisions.

#### **Article 223:**

According to legal jurisdiction, the court of cassation shall observe and scrutinize the verdicts of the primary and appellate courts.

#### **Article 224:**

Whenever, as a result of the observation and scrutinization of the court of cassation, it appears that the verdicts of the primary court and the appellate court or one of them have been issued in accordance with the rules and regulations, it shall be confirmed by the court of cassation.

#### **Article 225:**

The objections beyond the subject matter of the decision shall not be heard in the superior court but shall be considered a new lawsuit.

#### **Article 226:**

The decision issued in counterclaim lawsuits, besides the main lawsuit, shall not be appealed before the resolution of the main lawsuit.

#### **Article 227:**

The period of application to the cassation court shall be considered from the date of announcing the verdict of appeal.

#### **Article 228:**

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If one of the parties dies before an appeal to the cassation court until the court verdict is not announced to the deceased's heirs or his/her minor heirs, if there is a child among the heirs, their right for cassation shall remain reserved.

**Article 229:**

If the application for cassation is made beyond the specified period, the said application shall be rejected by the cassation court.

**Article 230:**

If one of the opposing parties pleads for cassation, the other party shall also have the right to plead for cassation before the decision made by the cassation court.

**Article 231:**

The expiration of the cassation period of the opposing parties during the litigation period shall have no effect on the other party's right of appeal to the cassation court.

**Article 232:**

The appeal to the cassation court shall only be made by submitting a claim or submitting a response form, which is submitted based on the claimant's answer to the form.

**Article 233:**

An appeal to the cassation court shall be made by submitting a petition to the Directorate of Cassation.

**Article 234:**

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A petition for appeal to the cassation court may also be submitted to the Hight Directorate of Cassation.

**Article 235:**

The authority for cassation in the provinces is the governor of the province and the head of the provincial commission.

**Article 236:**

The following steps shall be observed in the application for cassation submitted to the Directorate of Cassation:

- A. Explaining the claims for cassation.
- B. The names of the parties and their complete details.
- C. Specifying the court from which the judgment was issued.
- D. The date on which the judgment was issued and the mode of appeal to the cassation court.

**Article 237:**

Along with the application for cassation, the submission of the following documents is mandatory by the appellant:

- A. The text of the decision that the court endorses.
- B. The form of pleadings of the appellant with its objections and reasons.

**Article 238:**

Each form of pleadings, objections, and reasons shall have two copies.

**Article 239:**

The application that does not contain the documents set forth in Articles (233, 236, and 237) shall be rejected by the Directorate of Cassation.

**Article 240:**

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Within the cassation period, the appellant can prepare and fill out his/her application based on the required conditions and resubmit the same.

**Article 241:**

After the expiry of the period for cassation, the right to request for cassation shall be canceled.

**Article 242:**

The request for cassation shall stop the execution of the rulings related to the primary and appellate courts.

**Article 243:**

The cassation court shall be obliged to confirm the objection paper and guarantee documents related to the application for cassation within one week after submission of the application for cassation and notify the same defendant.

***Note:** Emergencies shall be excluded from the provisions of the above article.*

**Article 244:**

The convicted party shall be obliged to submit the objections, defenses, and reasons that consider as the objection of the cassation court appellant within one week after the date of notification of the cassation court.

***Note:** Emergencies shall be excluded from the provisions of the above article.*

**Article 245:**

The cassation authorities in the provinces shall be obliged to confirm the form and guarantee documents related to the application for cassation after the necessary publicity, and after receiving the answer from the other side,

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shall prepare the documents of the parties within one week and send the same to cassation court via postal service.

**Note:** *Emergencies shall be excluded from the provisions of the above article.*

**Article 246:**

The applicant for cassation shall be obliged to follow up on the appeal regulation set forth in Article (244).

**Article 247:**

The authorities who have caused the delay in sending the application for cassation and caused damage to one of the opponents shall be held responsible.

**Article 248:**

The cassation shall only examine and observe the decisions of the lower courts and can summon the parties if necessary.

**Article 249:**

There are four types of reasons for canceling the decisions of the lower courts:

- A. The decision made in a court that doesn't have the jurisdiction to hear the matter.
- B. The decision of the court was made contrary to rules and regulations.
- C. The proceedings of the lawsuits have been carried out contrary to the trial procedures and the necessary conditions.
- D. The decisions issued on an issue that are contradictory to each other.

**Article 250:**

If a lawsuit is heard in a court where the court doesn't have the jurisdiction to listen to that lawsuit, the decision made shall be canceled.

**Article 251:**

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The incomplete decision that reaches to cassation court, their revoking shall not stop at the objection of the objector. Still, it can be revoked legally by the cassation court in the absence of an objection.

**Article 252:**

Opposition to the judgment shall be valid from the rules that are enforceable at the time of issuance of the judgment.

**Article 253:**

The contradictory decisions issued by two courts in the same matter, and neither of them can be upheld, shall be revoked.

**Article 254:**

In lawsuits arising from the contracts, if the document's provisions are misinterpreted, the related judgment shall be revoked.

**Article 255:**

The lawsuits that courts have decided against the principles of trial, the cassation court may annul them for one of the following reasons:

- A. Failure to comply with the principles of courts.
- B. Fault and mistake in observing the principles to the degree that caused the ruling to be changed.
- C. Existence of objection by the plaintiff or the defendant against the reasons for the change and violation of the principle of the trial while the court has not verified the objection.

**Article 256:**

The decision of the primary and appellate courts that are issued contrary to the rules and regulations, even if the objection of the applicant is not enough, the decision shall be violated.

**Article 257:**

The decisions issued by the courts that do not have the jurisdiction to resolve them shall be violated by the cassation court and returned to the relevant court.

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**Article 258:**

In the case of reference, submitting a new application to the court is unnecessary, but the same application submitted to the cassation court shall be sufficient.

**Article 259:**

If the cassation court violates the decision due to the existence of reasons, and it is referred to another court for review, if the second court decision is based on the reasons of the first court decision and the plaintiff or the defendant requests its violation again, the secondary reviews shall be carried out in the presence of the general delegation of the cassation court.

**THE DUTY OF THE CASSATION COURT AFTER THE REVOCATION OF THE JUDGMENT**

**Article 260:**

The cassation court does not deal with the main decision of the lawsuit that revokes its judgment, but it shall assign the case to the court that is determined in accordance with the rules and regulations.

**Article 261:**

The cassation court shall be obliged to carefully review any lower courts' decisions (primary and appellate courts). If necessary, the decision is revoked; the cassation court shall order to return the case to the relevant court to re-review and issue another judgment.

**Article 262:**

It shall not require a new application to correct the revoked judgment or rehear the case by another court, but only presenting the order of the cassation court will be sufficient.

**Article 263:**

If the judgment is not revoked due to the lack of jurisdiction of the court but it is considered to be revoked due to other causes and defects, the

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Directorate of the Cassation Court can assign the case to the appellate court that issued the decision and order it to rehear the case, and if the appellate court revoked the decision as before, then the case shall be referred to another case with the same level, and if still the decision is revoked by the second court, the Directorate of Cassation court shall have the authority to judge in that matter.

**Article 264:**

If the cassation court has issued a judgment on the appeal in terms of the expiration of the given period, since the court has not considered the reasons for the judgment, if the given judgment is revoked, it shall be returned to the said court and processed once again.

**Article 265:**

If the defect of the appellate is, for example, in witness/evidence, and the basis of the claim has taken on a legitimate and legal form, if it is revoked, it shall be referred to the same court. The said court shall not want to re-examine the case's merits; instead, it shall correct the defects of the decisions related to witness after witness.

**Article 266:**

Likewise, if the cassation court revokes the judgment in terms of lack of clarification, and because of which it is referred to the court, the retrial of the case and witness shall not be required, but still, only correction of the defects shall be considered.

**Article 267:**

The investigations of the court of cassation shall be completed within one month from the date of entry of the case, and a cassation summons shall be issued within the given period.

***Note:*** *Emergencies shall be excluded from the provisions of the above article.*

**Article 268:**

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The cassation court can, if necessary, ask for the original documents that the parties have submitted to the primary court or appellate court for the purpose of consideration.

**Article 269:**

The following points shall be observed in the decisions of the cassation court:

- A. The parties' names, specifications, occupations, and places of residence.
- B. The verdict of the lower courts.
- C. Summary of objections and reasons presented by the parties.
- D. Reasons for revocation and approval.

**Article 270:**

The decision revoked due to legal defection does not affect the principle of the trial and its processes, and it will be corrected legally.

**Article 271:**

The judgment that the cassation court revokes is returned to the relevant court; the said court includes the decision of the cassation court with its words and phrases into the second judgment. If the court rejects it, the cassation court can revoke it for a second time.

**Article 272:**

If a person files a lawsuit against two persons, for example, and a judgment is made against them, if one appeals to the cassation court, the second person cannot use it as annulment of the judgment.

**Article 273:**

If the principal and guarantor were ordered to pay the debt, the principal applied for cassation, and both could use it to revoke the decision.

**Article 274:**

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If the court had ruled on the division of shared lands or properties of several people, and if the decision is revoked only by the application of one person for cassation, the other partners can use it.

**Article 275:**

The cassation court cannot transfer the revoked case to another court other than the court that issued the verdict without the party's consent.

**Article 276:**

The revoked judgment must be amended before the opposing parties, or otherwise, it shall be revoked again before the cassation court.

**Article 277:**

The decision issued by the cassation court shall mention the name, the details, occupation, and residential place of the parties and the decision that has been referred to the cassation court, the summary of objections and arguments of the parties, and the reasons that caused the revocation or approval of cassation court, along with religious details and principles.

**Article 278:**

The parties shall be informed about the decision made by the cassation court.