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**Legislative Decree No. (26) of 1986**

**with respect to Procedures Before Sharia’a Courts**

**We, Isa bin Salman Al Khalifa, The Emir of the State of Bahrain.**

After reviewing the constitution,

the Emiri Order No. (4) of 1975,

Legislative Decree No. (13) of 1971 with respect to the Structure of the Judiciary,

and upon the submission of the Minister of Justice and Islamic Affairs,

and after the approval of the Council of Ministers,

**Hereby Decree the following Law:**

**Article One**

The procedures accompanying this Law shall be applied before the Sharia’a courts, and all provisions that contravene them shall be repealed.

**Article Two**

The Minister of Justice and Islamic Affairs shall implement this Law, and it shall come into force one month after the date of its publication in the Official Gazette.

**The Emir of the State of Bahrain**

**Isa bin Salman Al Khalifa**

Issued in Riffa Palace:

Date: 20 Rabi 'al-Akher 1407 AH

Corresponding 22 December 1986

**Chapter One**

**Procedures for Filing a Case**

**Article (1****)[[1]](#footnote-1)**

In cases other than those in which conciliation is not permitted and cases that are time sensitive or urgent action and execution procedures are required, those seeking to file a case regarding one of the personal status issues with respect to tutorship over which the Sharia’a court has jurisdiction shall submit an application to settle the dispute to the Family Conciliation Office.

If the case is initially filed with the Sharia’a courts regarding the disputes which falls under its jurisdiction, in matters in which conciliation is permitted without submitting a settlement request to the Family Conciliation Office to undertake settlement efforts between its parties, the court shall order that the case be referred to the Family Conciliation Office for the purpose of undertaking settlement efforts.

**Article (1) Bis[[2]](#footnote-2)**

The Family Conciliation Office shall make every effort to settle the dispute amicably in order to preserve the family sanctity, provided that the settlement ends within ten days from the date of submitting the application, and this period may not be extended except by agreement of the litigants and for a period not exceeding a further ten days.

If the dispute has settled amicably through conciliation, it shall be recorded in a record signed by the parties to the dispute, and attached to the record of the session in which it took place, and it shall have the power of writ of execution upon which the dispute shall be settled within the limits of the matters which has been reconciled.

If the efforts do not result in amicable settlement of the dispute in all or some of its aspects, the application and all the documents shall be sent to the Claims Registration Division to register it as a case no later than five days from the date it receives the case file from the Family Conciliation Office, so as to proceed with the judicial procedures in matters not agreed upon by the parties to the dispute, and the parties shall be notified of such.

**Article (1) Bis 1****[[3]](#footnote-3)**

With the exception of cases in which a request to settle the dispute must be submitted to the Family Conciliation Office, the case shall be filed at the request of the claimant to the court by a bill submitted to the Claims Registration Division.

**Article (2)**

The bill shall include the following data:

1. Name and surname of the claimant, profession, place of residence or the residence chosen by the claimant.
2. Name and surname of the defendant, profession and place of residence or the chosen location by the defendant. If the claimant or the defendant have others acting on their behalf, the type and description of this representation shall be indicated in the bill.
3. The date of submission of the bill to the court.
4. The court in which the case is being heard.
5. The merits of the case, its facts, the claimant’s requests and the reasons in which they are based.

**Article (3)**

If the claimant’s requests are based on different and independent reasons, the claimant shall clearly and plainly explain those reasons.

**Article (4)**

When submitting the bill, the claimant shall pay the entire fee.

**Article (5)**

The claimant shall submit to the Claims Registration Division copies of the bill, according to the number of the defendants.

**Article (6)**

The claimant shall attach to the bill the documents which support his claim in a list attached to it and copies of it, according to the number of the defendants.

**Article (7)**

The original bill and documents shall remain in the court and the parties shall be notified with copies of the bill and documents.

**Article (8)**

After paying the fees, the court clerk shall register[[4]](#footnote-4) the bill in the court’s register, and deposit the original bill and the receipt of payment of fees and documents of the case therein.

**Article (9)[[5]](#footnote-5)**

The court’s clerk shall set the date for hearing the case no later than ten days, and the time limit may be shortened if necessary by order of the president of the court.

**Article (10)[[6]](#footnote-6)**

The claimant is notified of attendance when submitting the bill, and such notification shall be concluded by marking the bill, and the rest of the litigants are notified[[7]](#footnote-7) of the bill and attendance together, provided that the time limit for attendance is not less than three days before the Lower Court and five days before the Appellate Court or the Higher Court, excluding the day of submitting the notification and the day of attendance, and the time may be shortened if necessary by order of the president the court, and the court hears cases urgently.

**Article (11)**

Before deciding on the merits of the case, if the court finds that the procedures for notification are incorrect, it orders the adjournment of the case to a subsequent session that it determines, and instructs the clerk of the session to repeat the notification procedures in accordance with the provisions of this Law.

**Chapter Two**

**Notification and Order of Attendance**

**Article (12)**

Every notification issued by the court in accordance with the law shall be in two copies and signed or stamped by the judge or the court or the representative on their behalf.

**Article (13)**

The notification shall be made by an employee of the court who issues it, or any other employee entrusted with it.

**Article (14)**

The notification is made to the person ordered with attendance by handing him a copy thereof or by displaying it to him.

**Article (15)**

The person who received a copy of the notification shall sign or stamp an acknowledgment receipt.

**Article (16)**

If a person who has received a notification is unable to sign or stamp the acknowledgement receipt, the notification shall be notified or left in the presence of a witness.

**Article (17)**

If the person ordered with attendance is not found, a copy of the notification shall be left with a member of his family residing with him in the same household, and the latter shall sign the acknowledgement receipt if the employee that has notified him with such requests him to do so.

**Article (18)**

If neither the person ordered with attendance is found nor a member of his family residing with him in the same household, the notification shall be pasted on a clear area of the residence which the person ordered with attendance usually resides.

**Article (19)**

The declaration noted in the notification shall be considered valid unless proven otherwise.

**Article (20)**

A written acknowledgement issued by the employee in charge of the notification, as well as a copy of the signed notification in accordance with the foregoing articles, shall be admitted as evidence to prove the notification.

**Article (21)**

If it is proven to the court that there is no way to conduct the notification in accordance with the provisions of the previous articles, it may order the notification to be pasted in the place last known to be where the defendant resided or his last known place of work.

**Article (22)**

If it is proven to the court that there is no way for the notification to take place due to the presence of the person concerned with the notification outside Bahrain in an unknown location, it may order that the notification be made through publishing it in the official gazette or one of the newspapers designated by the court for that.

**Article (23)**

If the person to be notified is outside Bahrain and has a representative in Bahrain to accept the notification on his behalf, the court may order the notification of the representative in Bahrain.

**Article (24)**

If it is proven to the court that the defendant is outside Bahrain and does not have a representative to accept the notification in Bahrain and has a known place of residence abroad, then the court may order either to notify him through diplomatic means through the Ministry of Foreign Affairs or to order that the notice be sent by registered mail where he resides abroad.

**Article (25)**

In the cases stipulated for in Articles (22, 23, 24) the date of the trial may not be determined before the lapse of thirty days from the date of the filing of the bill in court.

The defendant may expedite the proceeding of the case by himself or by an authorized representative.

**Article (25) Bis****[[8]](#footnote-8)**

A judge whom the Supreme Judicial Council appoints from the judges of the Lower Sharia’a Court shall be considered competent to hear cases related to the determination of a temporary alimony, a mandatory alimony, a fare of custody, breastfeeding, housing, the right of custody, or extradition of a minor.

The aforementioned cases shall be filed with a bill submitted to the Claims Division, and the aforementioned division shall register the case on the day of submission of the bill in the court’s special registry relating to the registration of cases, and shall set a session for hearing the case in a period not less than twenty-four hours, and in the event of extreme necessity this period may be shortened by an order from the judge to be made from hour to hour. The claimant shall be notified of attendance when submitting the bill, and such notification shall be concluded by marking the bill, and the rest of the litigants are notified of the bill and attendance together.

With the exception of the foregoing, the provisions prescribed in filing and notifying the case shall apply to those cases. Appeals before Court of Cassation or a request to reconsider the judgements may not be permitted.[[9]](#footnote-9)

This does not preclude the jurisdiction of the trial court from adjudicating those matters that are raised according to the original request.

**Chapter Three**

**The Presence or Absence of Opponents**

**Article (26)**

On the day the case commences, litigants shall themselves attend or the attorneys representing them or whomever represents them from their spouses, in-laws, and those related to them up to the fourth degree.

**Article (27)**

Once the power of attorney is issued by one of the litigants, the location of the representative shall be considered in the notification of the necessary judicial papers for the proceeding of the case in the degree of litigation entrusted with the attorney.

**Article (28)**

The power of attorney empowers the representative with the authority to do the relevant procedures for filing the case and its follow-up, defend or take precautionary actions until the judgement is issued in the degree of litigation the attorney has been delegated with, the declaration of such judgement and the collection of expenses thereof, without prejudice to the matters where special authorization shall be maintained in accordance with the mandatory provisions stipulated for in this Law.

**Article (29)**

It is not valid without special authorization to acknowledge the claimed right, its waiver, conciliation, arbitration, take an oath, direct or disqualify it, quit the dispute or waive the judgement or the right of its appeal in any stage, obtain replevin, waiver of the collateral while the debt remains, claim fraud, disqualify an expert, nor receive payments from the court on behalf of the principal.

In the event where special authorization has been granted to acknowledge the claimed right, the court may order the presence of the principal.

**Article (30)**

The retirement or dismissal of the representative shall not prevent the procedures from taking place unless the client declares his intention to initiate the case themself.

**Article (31)**

The court may order the presence of the opponents themselves, and if the person whose presence is required has an acceptable excuse which prevents attendance, the court may delegate one of its judges to hear his statements at a date determined by such court whereby the other opponent shall be notified of, and the statements of the opponents shall be noted in a record signed by both the judge and the clerk.

**Article (32)**

If the claimant and the defendant are not present at the first session, the court may adjourn hearing the case to another session and inform the claimant and the defendant of its date. If they do not attend the second session, the court may dismiss the case and oblige the claimant with the legal expenses.

**Article (33)**

The court shall also order the dismissal of the case if the claimant and the defendant attended and agreed upon its dismissal.

**Article (34)[[10]](#footnote-10)**

If the case remains dismissed for sixty days and neither opponent requests its proceeding, it shall be considered as though it has never been filed.

**Article (35)[[11]](#footnote-11)**

If the claimant attended, and the defendant was absent in the first session while being notified of the bill and of the attendance in person, the court shall rule in the case. However, if the defendant was not notified in person, the court shall, excluding the cases stipulated for in Article (25) bis, adjourn the case to a later session and the defendant shall be notified of such session. Accordingly, the judgement in both cases shall be considered to have been ruled as though all were present.

**Article (36)[[12]](#footnote-12)**

If there were multiple defendants and some were notified in person while the others were not, and those who were not notified in person did not attend the court, the court shall, excluding the cases stipulated for in Article (25) bis, adjourn the case to a later session and the defendants who were not notified in person shall be notified of such session. Accordingly, the judgement in both cases shall be considered to have been ruled as though all the defendants were present.

**Article (37)**

If the defendant attended any of the sessions, it shall be considered as though the defendant was present as long as the following sessions are consecutive thereafter, but if an interruption occurs to the sessions, the defendant shall be notified of the date of the new session, and it shall be considered as though the defendant was present even though the defendant failed to attend after such notification.

**Article (38)**

It is not permissible for the claimant to file new requests in the session in which his opponent failed to attend, or to amend or increase the initial request, and the defendant may not request a judgement to be issued regarding any of his requests in the absence of the claimant. However, each of the claimant and the defendant, upon obtaining the permission of the court, may request modification of any of their requests associated with the original case by providing such requests at the session and noting them in the record, which then shall be notified to the absent opponent in accordance with the stipulated provisions with respect to notification of bills.

**Article (39)**

If the absent opponent attends before the end of the session, any judgement against the opponent shall be considered as though it has never been ruled and the court shall inform the opponent of all the procedures which occurred in his absence.

**Chapter Four**

**Session System**

**Article (40)**

Controlling and managing the session are dependent upon the president of the court and shall have the right to demand the departure of anyone from the hearing hall who has shown contempt of court, and if that person does not oblige, then the court may order his immediate imprisonment for a period not exceeding ten days or subject him to a fine that does not exceed thirty Dinars, and its judgement shall be considered final.

**Article (41)**

The court may, even on its own initiative, order the removal of expressions contrary to moral and public order from any of the judicial documents. The court shall refer the false testimony case to the Public Prosecution.

**Article (42)**

The pleading is conducted in public and in the Arabic language, and the court may call upon the services of interpreter when hearing the statements of opponents or witnesses who do not understand the Arabic language.

**Article (43)**

A clerk shall be present with the judge at the hearings and in the evidentiary procedures, to note these procedures in the record and the judge shall sign it.

**Article (44)**

The claimant or the defendant may request the adjournment of the case to present a document or evidence in response to his opponent's defense or opposite requests.

**Article (45)**

The case may not be adjourned more than once for the same reason except when necessary and for a date specified in the decision of adjournment.

**Article (46)**

1. The opponents may request the court in any status that the case is in to prove their conciliation or any other agreement in the records of the session, and it shall be signed by them or by their authorized representatives for conciliation.
2. If they have written what they agreed upon, the court shall ratify what has been written and attach it to the records of the session after proving its content thereof.
3. The records of the session shall have the power of the official paper.

**Article (47)**

It is not permissible to accept notes, papers or memorandums from one of the opponents without them being viewed by the other opponent.

**Article (48)**

The deliberation in the judgement is confidential and issued by majority opinion.

**Article (49)**

The judgement shall be in writing, dated and signed by the court.

**Article (50)**

Judgment includes names of the opponents, titles, their attributes, the place of residence of each of them, and their presence or absence, and the names of their representatives, if applicable.

**Article (51)**

The judgment includes the reasons on which it is based, with clarification of the opponents’ request, and the conclusion of their defense.

**Article (52)**

The court may at any time correct, even on its own initiative, or at the request of one of the opponents, arithmetical or written errors that occurred in the judgment without the presence of the opponents.

**Article (53)**

The court shall, when issuing the judgement which settles the dispute, compel the guilty party to expenses and fees as it assesses for the attorney.

**Chapter Five**

**Appealing Judgments**

**First: Challenging Judgment in Absentia**

**Article (54)[[13]](#footnote-13)**

**Repealed**

**Article (55)[[14]](#footnote-14)**

**Repealed**

**Article (56)[[15]](#footnote-15)**

**Repealed**

**Article (57)****[[16]](#footnote-16)**

**Repealed**

**Second: Appeal**

**Article (58)**

Judgments issued on the merits of the case may be appealed in a preliminary manner, ending the dispute. Judgments issued during the proceeding of the case may not be appealed and shall not end the dispute.

**Article (59)[[17]](#footnote-17)**

The time limit for appeal is thirty days from the date of issuance of the appearance judgment, and the time period starts from the date of announcing the judgment which is considered issued in the presence of the guilty party, and the announcement of the judgment shall be for guilty party in person, in his place of residence or his chosen location.

Failure to observe the time allocated for appeal shall result in the loss of the right to appeal and the court shall rule on it on its own initiative.

**Article (59) Bis[[18]](#footnote-18)**

The time limit for appealing the judgements issued in the cases stipulated for in Article (25) bis is ten days from the date of their issuance, or from the date of announcing it to the guilty party in accordance with the provisions of Article (59) of the Law of Procedure Before Sharia’a Courts promulgated by Legislative Decree No. (26) of 1986.

**Article (60)**

The same rules and procedures which are applied to cases brought before the Court of First Instance shall be applied to cases brought before the Court of Appeal.

**Article (61)**

The Court of Appeal may reject the appeal and uphold the appealed judgement, or accept the appeal and amend the appealed judgement or revoke it and issue an alternative judgement for the case.

If the Court of Appeal decides to revoke the appealed judgment, it shall refer the case to the Court of First Instance, to adjudicate it again in any of the following cases:

1. If the appealed judgement was issued outside the jurisdiction of the Court of First Instance.
2. If the Court of First Instance ruled on the original requests by rejecting them, and overlooked ruling on the secondary requests applications.
3. If the Court of First Instance overlooked adjudicating in any of the requests submitted to it.

**Second Bis: Cassation****[[19]](#footnote-19)**

**Article (61) Bis**

The opponents may appeal before the Court of Cassation the judgements issued by the Sharia’a Supreme Court of Appeal or from the Higher Sharia’a Court in its appellate capacity, and the appeal before the Court of Cassation shall be regulated by its law.

**Third: Request to Reconsider the Judgement**

**Article (62)**

The opponents may request the reconsideration of the trial in relation to the final judgements, for any of the following reasons:

1. If the opponent or his representative commit fraud or deception which would affect the judgement.
2. If, after the judgement, an acknowledgement is presented that documents were forged and that the judgement was based upon them or it was judged that such documents were forged, or if the judgement was based upon the testimony of witnesses which was later judged that it was a false testimony.
3. If, after the judgement was issued, the opponent obtained conclusive papers relating to the case, which his opponent had prevented him from submitting to the court.
4. If two contradictory judgements were issued from one court on the same opponents and relating to the same subject.

**Article (63)**

The reconsideration period is the period of appeal.

The effect of such period is effective on the first three cases of the previous Article from the day when the fraud appeared, or in which it was acknowledged as forgery by its committer and it was judged accordingly, or judgement was passed on the witness who has falsely testified, or the day on which the paper that was prevented by the opponent from being submitted to the court appeared.

The period shall apply in the fourth case from the day on which the guilty party is informed of the subsequent judgement.

**Article (64)**

If a request for reconsideration of the period is filed on the basis of one or more of the first three reasons stipulated for in Article (62) of this Law, the court may review the case again and rule to either dismiss the request or to revoke or amend the judgement.

But if the reason for the request is the existence of two contradictory judgements, and this is proven by the court, the second judgement shall be revoked and the first judgement shall remain in effect.

**Article (65)**

The request to reconsider the judgment is not accepted if the judgement has been proceeded in the request for reconsideration.

**Fourth: General Provisions**

**Article (66)**

The periods to appeal judgments stop when the guilty party dies or losses his eligibility or in the case of the loss of capacity of the representative representing him in the dispute, and the stopping is revoked after the notification of the judgement to whomever shall act on his behalf.

**Article (67)**

If the person who has been awarded a judgement dies, lost his eligibility, or in the case of the loss of capacity of the representative representing him in the dispute, then the appeal may be filed and announced against the person who has been awarded the judgement in his last domicile or whomever acts on his behalf, provided that those concerned who have not appeared within the period determined by the court shall be re-announced.

**Article (68)**

If the last specified date for the appeal falls on an official holiday, the time limit shall be extended to the first working day thereafter.

**Article (69)****[[20]](#footnote-20)**

The provisions of the Civil and Commercial Procedures Law shall apply in the absence of a special provision in this Law. The provisions of the Evidence Law in Civil and Commercial shall also followed in all that does not conflict with the provisions of this Law.

**NOTE:** Legislative Decree No. (22) of 2015 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts included two provisions which stipulates the following:

1. The Minister of Justice shall issue a decision composing the Family Conciliation Office, designate its headquarter, set the procedures for submitting the settlement requests, registering them, the notification thereof, and the session he determines, including the work procedures in such Office, the rules and procedures to be taken in achieving conciliation, and other requirements that are necessary to carry out the settlement tasks.

Provided that such Office shall include a sufficient number of legal, social and psychological specialists.

Resorting to the Family Conciliation Office shall be free of any cost.

1. The provisions of Articles (1) and (1) bis of this Law shall apply to cases that were registered prior to the effective date of this Law in which the pleading procedures were not proceeded therein. The Claims Registration Division shall refer such cases to the Family Conciliation Office, and the disputed parties shall be informed of such referral.
1. as amended by Legislative Decree No. (22) of 2015 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-1)
2. Added by Legislative Decree No. (22) of 2015 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-2)
3. Added by Legislative Decree No. (22) of 2015 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-3)
4. The word (register) replaced the word (notebook) according to Law No. (51) of 2006 amending Article (8) of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-4)
5. as amended by Law No. (40) of 2005 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-5)
6. as amended by Legislative Decree No. (22) of 2015 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-6)
7. The word (notification) replaced the words (report) and (summon) wherever mentioned according to Law No. (40) of 2005 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-7)
8. Added by Legislative Decree No. (22) of 2015 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-8)
9. as amended by Legislative Decree No. (22) of 2015 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-9)
10. as amended by Law No. (10) of 2018 amending Article (34) of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-10)
11. as amended by Law No. (40) of 2005 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-11)
12. as amended by Law No. (40) of 2005 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-12)
13. repealed by Law No. (40) of 2005 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-13)
14. repealed by Law No. (40) of 2005 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-14)
15. repealed by Law No. (40) of 2005 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-15)
16. repealed by Law No. (40) of 2005 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-16)
17. as amended by Law No. (40) of 2005 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-17)
18. Added by Law No. (40) of 2005 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-18)
19. Added by Legislative Decree No. (22) of 2015 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-19)
20. Added by Legislative Decree No. (22) of 2015 amending certain provision of Legislative Decree No. (26) of 1986 with respect to Procedures Before Sharia’a Courts. [↑](#footnote-ref-20)