

This may be circulated amongst all the Judicial Officers and paralegal staff under your control, for information and strict compliance, please.

(PHC Letter No. 2910-50/Admn Dated 17<sup>th</sup> March, 2016)

C.No. **51**(3-12)

### **DISSEMINATION OF INFORMATION AGAINST HON'BLE JUDGES AND INSTITUTION.**

I am directed to refer to the subject noted above and to say that spreading of graceless and indecorous information or commenting against the Hon'ble Judges and Institution through "Social Media" not only falls within the ambit of mis-conduct but is also a serious Cyber Crime.

I am therefore, to convey grave concerns of his lordship Hon'ble the Chief Justice expressed during visit of his lordship Hon'ble the Chief Justice to District Bar, Peshawar with directions to refrain from such practice in future otherwise, strict action will be initiated in due course.

(PHC Letter No. 8428-8627/Admn Dated 23<sup>rd</sup> July, 2016)

C.No. **52**(3-12)

### **DIRECTIVES OF HON'BLE THE CHIEF JUSTICE**

I am directed to say that Hon'ble the Chief Justice has been pleased to direct that henceforth all the Judicial Officers and his staff shall not use mobile/cell phone inside the Court Room during working hours.

This may be circulated amongst all the Courts within your administrative control for compliance, please.

(PHC Letter No. 11419-11463/Admn Dated 26<sup>th</sup> October, 2016)

C.No. **53**(3-12)

### **WIMPLED PHOTOS OF FEMALE JUDICIAL OFFICERS.**

The subject issue was examined by Hon'ble Administration Committee in its meeting dated: 20.02.2017 in the light of National Policy on such issues such as CNIC and Passport and it was decided that the same

policy shall also be applicable for female employees of Peshawar High Court. Therefore, the exemption of showing face was regretted.

Please inform all the female judicial officers of your respective districts accordingly.

(PHC Letter No. 4175-99/Admn, Dated 04<sup>th</sup> March, 2017)

C.No. **54**(3-12)

### **DIRECTIVE OF HON'BLE THE CHIEF JUSTICE**

The Hon'ble Chief Justice has been pleased to order that in future, no judicial officer shall participate in any function of the Bar, where a politician or an executive is invited as a Chief Guest.

That in view, it is requested that these standing instructions may be circulated amongst subordinate judicial officers for strict compliance.

(PHC Letter No.6936-60/Admn, Dated 14<sup>th</sup> April, 2017)

C.No. **55**(3-12)

### **GRANT OF M.PHIL ALLOWANCE @ 2500/- PM**

This court is in receipt of letters from District/Civil Courts seeking sanction of the subject allowance on the basis of equivalent qualification. Regarding admissibility of the aforesaid allowance on the basis of equivalent qualification (MS, LLM), this Court sought clarification from the Finance Department. The Finance Department vide its letter No. FD(SOSR-II/8-14/13 PHD allowance dated: 29.09.2016 clarified that there is no provision about admissibility of such allowance for other qualification equivalent to the M. Phil Degree.

(PHC Letter No.1605-55/B&A, dated Peshawar the 19-04-2017)

C.No. **56**(3-12)

### **VISITATION OF JUDICIAL OFFICERS TO HIGH COURT**

I am directed to refer to the subject noted above and to state that in continuation of this Court letter No. 14564-98/Admn dated: 05.11.2014, the Competent Authority has taken a serious note of the fact that officers and subordinate staff of district judiciary have made it a habit to visit High Court on trivial matters without prior appointment/intimation at the cost of wasting precious time at both ends.

It has been desired that in future unless unavoidable, visits to this court shall be regulated by way of advance intimation to the office of Registrar or PSO to Hon'ble Chief Justice.

Non observance of the order shall make the delinquent officer/official liable to disciplinary action under the law.

All the concerned officers and staff be accordingly intimated, please.

(PHC Letter No. 10422-10446/Admn, Dated 12<sup>th</sup> July, 2018)

C.No. **57**(3-12)

### **VISITATION OF JUDICIAL OFFICERS AND OTHER ALL TYPE OF VISITORS TO HIGH COURT**

I have been directed to invite your attention to this Court's letter No. 10422-10446/Admn dated: 12.07.2018 (copy enclosed). It is once again reiterated that certain officers, staff of District Judiciary and other visitors (from NGOs, etc) have made it a habit to visit the High Court on trivial matters without prior appointment /intimation.

It is therefore requested that visits to this Court be regulated through prior appointment / intimation to the office of Registrar or PSO of Hon'ble Chief Justice. I have been further directed to communicate that failure to comply with shall be liable to punitive action.

(PHC Letter No. 4356-4462/Admn, Dated 12<sup>th</sup> March, 2019)

**SECTION-XIII**  
**TRAINING OF HUMAN RESOURCE**

C.No. 1(3-13)

**PROVINCIAL JUDICIAL TRAINING CENTRE AT PESHAWAR**

**PESHAWAR HIGH COURT**  
**NOTIFICATION**

Dated Peshawar the 11<sup>th</sup> March 2008

**No. H(a)/Trg-I-II-III-IV-V/ J.** Whereas the proper training of Judicial Officers and Court personnel is necessary, in order to improve the professional competence of Judges and Court staff, and to enhance the quality of Justice administered in the Courts;

And whereas the provincial government shall be asked to establish a full-fledged Provincial Judicial Academy at Peshawar in due course of time;

Now, therefore, the Chief Justice is pleased to notify a Provincial Judicial Training Centre at Peshawar with a Director for making arrangements towards the end of capacity building of the Judges and staff of the Courts.

C.No. 2(3-13)

**ESTABLISHMENT OF KHYBER PAKHTUNKHWA JUDICIAL ACADEMY**

**Government of the Khyber Pakhtunkhwa**  
**Law, Parliamentary Affairs and Human Rights Department**

**ORDER**

Dated Peshawar the 05<sup>th</sup> March 2011

**No. E&A/LD/8-100/2008:-** The Competent Authority has been pleased to order the establishment of the Khyber Pakhtunkhwa Judicial Academy, with immediate effect as an interim arrangement, till the enactment of the draft law for the establishment of the Khyber Pakhtunkhwa Judicial

Academy. Faculty and other staff will be provided by the Peshawar High Court, Peshawar.

## **PESHAWAR HIGH COURT, PESHAWAR**

### **ORDER**

Dated Pesh the 13<sup>th</sup> April, 2011

In pursuance of Provincial Government order No.E&A. LD.8-100.2008 dated 05.03.2011, Hon'ble the Chief Justice has been pleased to establish Khyber Pakhtunkhwa Judicial Academy with immediate effect in the old premises of Sessions Court, Peshawar, opposite to the Central Jail, Peshawar, previously occupied by the District & Sessions Judge, Additional District & Sessions Judges and Civil Judges

(PHC Endst No.5162-207/Admn Dated 21<sup>st</sup> April, 2011)

C.No. 3(3-13)

## **THE KHYBER PAKHTUNKHWA JUDICIAL ACADEMY ACT,2012**

### **(KHYBER PAKHTUNKHWA ACT NO. IV OF 2012)**

#### **AN ACT**

to provide for the establishment of the Khyber Pakhtunkhwa Judicial Academy

WHEREAS it is expedient to establish an academy for imparting training to the judicial officers and personnel concerned with the system of administration of justice with a view to develop their capacity, professional competence and ethical standard for efficient dispensation of justice and matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Judicial Academy Act, 2012.  
  
(2) It shall extend to the whole Province of the Khyber Pakhtunkhwa.

- (3) It shall come into force at once.
2. Definitions.---In this Act, unless there is anything repugnant in the subject or context,-
- (a) “Academy” means the Khyber Pakhtunkhwa Judicial Academy established under section 3;
  - (b) “Board” means the Board of Governors of the Academy;
  - (c) “Chairman” means the Chairman of the Board;
  - (d) “Director General” means the Director General of the Academy;
  - (e) “faculty” means members of the teaching staff of the Academy;
  - (f) “Fund” means the Fund of the Academy established under section 11;
  - (g) “Government” means the Government of the Khyber Pakhtunkhwa;
  - (h) “member” means a member of the Board;
  - (i) “prescribed” means prescribed by rules made under this Act; and
  - (j) “staff” means members of the staff of the Academy, including employees on contract, part time and deputation
3. Establishment of the Academy.---(1) Government shall, by notification in the official Gazette, establish an Academy to be known as the Khyber Pakhtunkhwa Judicial Academy.
- (2) The Academy shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable in its

name, and shall by its name sue and be sued.

- (3) The main office of the Academy shall be at Peshawar. The Academy shall have its regional offices at such places as the Board may deem fit.

4. Aims and objectives of the Academy.---The aims and objectives of the Academy shall be-

- (a) to provide training to the judicial officers and court personnel and the personnel of all those departments, organizations, bodies and institutions, which are directly or indirectly connected with the system of administration of justice like Police, Prosecutors, Government Pleaders, Probation Officers, Medico Legal Experts and others;

<sup>1</sup>[(aa) to provide higher education in the field of law and judicial studies,]

- (b) <sup>2</sup>[to award certificates, degrees, diplomas and other distinctions to the students and trainees and to prescribe standards of proficiency before awarding such degrees, diplomas, certificates and distinction's, ]

- (c) to hold conferences, seminars, lectures, workshops and symposia in matters relating to court management, administration of justice, law and development of skills in legislative drafting;

- (d) to initiate, promote and encourage research, publication of books, journals, research papers and reports on important topics relating to administration of justice;

- (e) <sup>3</sup> [to establish liaison with research institutions, universities and other bodies including the Federal

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<sup>1</sup> Added vide Khyber Pakhtunkhwa Judicial Academy Act, 2015

<sup>2</sup> Added vide Khyber Pakhtunkhwa Judicial Academy Act, 2015

<sup>3</sup> Added vide Khyber Pakhtunkhwa Judicial Academy Act, 2015

Judicial Academy and the Higher Education Commission towards the cause of administration of justice for legal and judicial education.]

- (f) to inculcate and promote ethical values and standards in judicial officers and in personnel connected with the system of administration of justice.

5. The Board.---The Board shall consist of the following:

- |   |               |
|---|---------------|
| (a) Chief Justice of the Peshawar High Court;                                       | Chairman      |
| (b) Senior most Judge of the Peshawar High Court;                                   | Vice-Chairman |
| (c) Additional Chief Secretary to Government;                                       | Member        |
| (d) Secretary to Government Law, Parliamentary Affairs and Human Rights Department; | Member        |
| (e) Secretary to Government Finance Department;                                     | Member        |
| (f) Advocate General, Khyber Pakhtunkhwa  | Member        |
| (g) Registrar, Peshawar High Court;   | Member        |
| (h) The Additional Registrar (Admn), Peshawar High Court                            | Member        |
| (i) Member Inspection Team, Peshawar High Court                                     | Member        |
| (j) the Principal/Dean, Faculty of Law, University of Peshawar; <sup>1</sup> [ ]    | Member        |

<sup>1</sup> The word "and" deleted vide Khyber Pakhtunkhwa Judicial Academy Act, 2015



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|--|----------------------|
| (k) Director General of the Academy;<br>and <sup>1</sup>   | Member-cum-Secretary |
| (l) <sup>2</sup> [a representative of the Higher Education Commission, not below the rank of basic pay scale 20 officer] | Member               |
6. Powers and functions of the Board.---(1) For carrying out the aims and objectives of the Academy, the Board shall, [subject to the provisions of this Act]<sup>3</sup>-
- (a) exercise supervision and control over the affairs of the Academy;
  - (b) lay down the policy and program for training;
  - (c) initiate, modify, adopt the curriculum, courses, modules, clinics, for orientation and training;
  - (d) organize and carry out the activities and performance of the Authority;
  - (e) consider and approve the annual budget and revised budget estimate of the Academy;
  - (f) manage financial affairs;
  - (g) cause proper books of account to be maintained for all sums of money received and expenditure incurred by the Academy and arrange for audit of accounts;
  - (h) specify qualifications, conditions of service and matters relating to the Director General, faculty members and staff of the Academy;
  - (i) create, abolish, suspend and upgrade posts;

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<sup>1</sup> Added vide Khyber Pakhtunkhwa Judicial Academy Act, 2015

<sup>2</sup> Added vide Khyber Pakhtunkhwa Judicial Academy Act, 2015

<sup>3</sup> Added vide Khyber Pakhtunkhwa Judicial Academy Act, 2015

- (j) purchase, hire, construct or alter any building for the use of the Academy;
  - (k) acquire, hold, control, maintain, administer, construct or dispose of any property, or other assets; and
  - (l) acquire, maintain and dispose of any vehicle;
  - (m) affiliate the Academy with other academies, institutions and centers of the Federal, Provincial or Foreign Government and Organizations;
  - (n) appoint advisors, consultants and experts and specify their terms and conditions;
  - (o) appoint or hire permanent or visiting faculty and specify their terms and conditions; and
  - (p) decide any other matter ancillary or incidental to aims and objectives of the Academy.
- (2) The Board may delegate any of its powers or functions to the Chairman, member or the Director General, as it may deem fit.
7. Appointment of the Director General.---(1) The Director General shall be appointed by the Chairman from amongst the serving or retired District and Sessions Judges on such terms and conditions as may be determined by the Board.
- (2) The Director General may resign from his office by writing under his hand, addressed to the Chairman.
8. Powers and functions of the Director General.---The Director General shall-
- (i) manage the affairs of the Academy under the general directions of the Chairman;

- (ii) be the academic and administrative head of the Academy and shall be responsible for administration, maintenance, order and discipline;
- (iii) be the drawing and is disbursing officer of the academy; and
- (iv) execute the policy, set out by the Board.

9. Meetings of the Board.---(1) A meeting of the Board shall be called by the Chairman on such date and at such time and place as he may deem appropriate:

Provided that the intervening period between two meetings of the Board, shall not exceed six months.

- (2) In the absence of the Chairman, the Vice-Chairman and in his absence, the nominee of the Chairman shall preside over the meeting of the Board.
- (3) The quorum of the meeting of the Board shall be six members.
- (4) All decisions shall be made by simple majority present and voting.
- (5) The Chairman or the Vice-Chairman or member, as the case may be presiding over the meeting, shall have a casting vote in case of tie.

10. Appointing authority.---(1) The Appointing authority of the staff shall be the Chairman.

- (2) The Chairman may delegate his power to the Director General for appointment of any class of staff.

<sup>1</sup>[10-A The Controller of Examination shall be appointed by initial recruitment on contract basis and if no suitable person is available for initial recruitment then by deputation for a period of three years, on such terms and conditions of service as may be prescribed.]

<sup>2</sup> [10-B There shall be an Academic Council, which shall comprise of-

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<sup>1</sup> Added vide Khyber Pakhtunkhwa Judicial Academy Act, 2015

<sup>2</sup> Added vide Khyber Pakhtunkhwa Judicial Academy Act, 2015

- |     |   |                      |
|-----|---|----------------------|
| (a) | The Director General, Judicial Academy;   | Chairperson          |
| (b) | All the Directors of Judicial Academy   | Members              |
| (c) | A representative of the Peshawar High Court   | Member               |
| (d) | A representative of Higher Education Commission.  | Member               |
| (e) | Two faculty members of the Judicial Academy to be nominated by the Director General, Judicial Academy, for a period of two years;   | Members              |
| (f) | An eminent lawyer to be nominated by the Director General, Judicial Academy, for a period of two years;   | Member               |
| (g) | A legal expert having a rich experience of academics and research, preferably a university teacher to be appointed by the Director General, Judicial Academy for a period of two years; and | Member               |
| (h) | The Dean, Faculty of the Judicial Academy.  | Member-cum-Secretary |

(2) The Academic Council shall be responsible for all academic matters including course, syllabi, examinations, degrees, diplomas, certificates and other matters connected therewith and ancillary thereto;

(3) The meeting of the Academic Council shall be held at least once in six months.

(4) The Dean Faculty of the Judicial Academy shall be the Secretary of the Council and in the absence of the Chairperson, dean faculty of the Judicial Academy shall preside over the meeting.

(5) The quorum of a meeting of the Academic Council shall be one half of the total members.

(6) All decisions shall be made by the majority of the members present in the Council's meeting".]

11. Application of the Khyber Pakhtunkhwa Government servants (Efficiency and Discipline) Rules.---The Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules shall, mutatis mutandis apply to the employees serving in the Academy.

12. Fund.---(1) There shall be a Fund to which all its income shall be credited and from which all its expenditures shall be met.

- (2) The sources of income of Funds shall be-
- (a) grants made by the Federal Government;
  - (b) grants made by Government;
  - <sup>1</sup>[ (bb) grants made by the Higher Education Commission, or any Federal or Provincial Agency;”.]
  - (c) sale proceeds of the property and publications of the Academy; and
  - (d) fees, charges or any other sum received by the Academy from any lawful source.
- (3) The Fund shall vest in the Academy and the money to the credit of the Fund shall be kept in a personal ledger account in the Government Treasury or with the approval of the Board, in a Scheduled Bank.

13. Budget.---(1) The Director General shall, in respect of each fiscal year, submit for approval of the Board, by such date and in such manner as may be prescribed, a statement showing the estimated receipts, the current and development expenditures and the sums required as grants-in-aid from the Federal Government and Government.

- (2) The Director General shall not incur any expenditure from the Fund which is not provided for in the Budget approved by the Board except in certain conditions, situations and to such limit as may be prescribed.

14. Audit.--- The accounts of the Academy shall be audited by the Director General, Provincial Audit in such a manner as may be prescribed.

15. Annual Reports, etc.---(1) Within two months of the conclusion of each calendar year, the Director General shall submit the annual report to the Board, in respect of various activities carried

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<sup>1</sup> Added vide Khyber Pakhtunkhwa Judicial Academy Act, 2015

out by the Academy during the previous year.

(2) The Board shall submit such annual report within period of six months of the close of the calendar year, to Government.

16. Power to make rules.--- The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Repeal.-- The Khyber Pakhtunkhwa Judicial Academy Ordinance, 2011 (Khyber Pakhtunkhwa Ordinance No. II of 2011) is hereby repealed

**SECTION-XIV**  
**INSTRUCTIONS RELATING TO TRAINING**

C.No. 1(3-14)

**TRAINING FOR PROBATIONERS JUDICIAL OFFICERS**

In exercise of the powers conferred by Rule 9(4) of the [*Khyber Pakhtunkhwa*]<sup>1</sup> Judicial Service Rules, 2001, the following training is prescribed by the High Court for Probationers, henceforth placed on probation, as mentioned against each category, to be undertaken in each institute / Academy / Body as may be specified by the Chief Justice of the Court from time to time.

S.No.	Category of Probationers	Duration of Training
1	District & Sessions Judges / Zila Qazis	Two weeks
2	Additional District & Sessions Judges / Izafi Zila Qazis appointed by promotion	Three weeks
3	Additional District & Sessions Judges / Izafi Zila Qazis appointed by initial recruitment	From Four to Eight weeks
4	Senior Civil Judges / A'ala A'laqa Qazis	Three weeks
5	Civil Judges-cum-Judicial Magistrates / A'laqa Qazis	From Four to Eight weeks

(PHC Notification No. 5-J dated Peshawar the 20<sup>th</sup> December, 2003)

C.No. 2(3-14)

**CHIEF JUSTICE DIRECTIVE NO. 5 (LOCAL TRAININGS)**

I am directed to reproduce herewith the subject directive issued by his Lordship the Chief Justice for immediate compliance.

“The District & Sessions Judges be required to lay emphasis on local training of ministerial staff and to arrange local training activities (Workshops, Seminars & Study Circles) for the Judicial Officers from within their own resources so that maximum output is ensured”.

<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

(PHC letter No.4536-4550/Admn. Dated Peshawar the 23<sup>rd</sup> April, 2004)

C.No. 3(3-14)

### **FOREIGN TOUR/TRAININGS**

I am directed to refer to the subject noted above and to say that certain instances have come to the notice of this Court that some judicial officers apply or manipulate for foreign tour/training without first getting permission of this court. This practice is against service discipline and should be discontinued forthwith. Anyone found guilty shall be dealt with strictly under disciplinary rules.

These instructions may be circulated amongst all the judicial officers under your control.

(PHC Letter No. 1024-60/Admn, dated Peshawar the 31-01-2012)

C.No. 4(3-14)

### **MANDATORY PARTICIPATION TO TRAINING PROGRAMMES**

I am directed to say that the Competent Authority has shown his displeasure on the attitude of the Judicial Officers who upon nomination for training, comes up with excuses for exemption at the eleventh-hour creating embarrassment both for this Court and the training agencies.

Needless to say, that training is an integral part of service which is an essential medium to nurture skills for better service delivery.

It is therefore, once again reiterated the participation in trainings is compulsory for the Judicial Officers and exemptions application or non-serious participation reports, shall be placed on their personal files for consideration at the time of writing PER reports.

You are therefore, to communicate this to all the Judicial Officers under your administrative control for information and future compliance, please.

(PHC Letter No.13707-731/Admn, 26<sup>th</sup> November, 2015)



C.No. 5(3-14)

**DIRECTIVES OF THE HON'BLE CHIEF JUSTICE.**

I am directed to refer to the subject noted above and to say that in order to bring a positive improvement in quality of adjudication besides ensuring expeditious disposal of cases, Hon'ble the Chief Justice has been pleased to approve introduction of a system of mentorship and directed that each District & Sessions Judge shall entrust a group of Civil Judges-cum-Judicial Magistrates to the Additional District & Sessions Judge(s) with a view to ensure their mentorship that would lead to improvement in quality and quantity of disposals besides the facilitation of the District & Sessions Judge in monitoring and control.

You are, therefore, requested to comply with the above directions of Hon'ble Chief Justice in letter and spirit, please.

(PHC letter No. 14695-719/Admn Dated 14<sup>th</sup> September, 2018)

C.No. 6(3-14)

**LOCAL TRAINING OF JUDICIAL OFFICER/LAWYERS AND MINISTERIAL STAFF**

I am directed to refer to the subject cited above and to say that Khyber Pakhtunkhwa Judicial Academy has devised the uniform training module for carrying out local/regional trainings. The manual can be downloaded from the website of the Peshawar High Court.

In case of any difficulty regarding reading material, you may approach academic wing of the KPJA for assistance.

(PHC Letter No.4514-48/SDJ/HRW/ADMIN Dated 31<sup>st</sup> March 2021)

C.No. 7(3-14)

**MANUAL FOR LOCAL/REGIONAL TRAINING**

**Introduction**

Para # 16 of the District Judiciary Performance, Monitoring, and Evaluation Policy 2020-2025 of Hon'ble the Peshawar High Court, Peshawar, refers to local/regional training programs of Judicial Officers, Lawyers, and Ministerial Staff. Such programs are also mentioned in the High Court's

strategy for eradication of corruption. Training areas identified in the policies include skill development, uniformity in judicial discretion, expeditious adjudication tools, soft skills, leadership, smart management, scheduling mechanisms, maintenance of record, ethical standards motivation, observance of code of conduct rules and directives of Peshawar High Court, inquiries and disciplinary proceedings etc.

Hon'ble the Peshawar High Court, Peshawar, vide letter No. 19889 dated 09-11-2020 followed by letter No. 3017 dated 26-02-2021, instructed the Academy to bring uniformity in the local training plans. This Manual has been formulated with the stated objective. Training sessions may be rolled out, as per local requirements, according to the Manual. It is envisaged that sound and systematic methodology will be followed in designing training plans and evaluation mechanisms to make training sessions effective. The Academy can be consulted for further assistance, if any.

## **Module 1**

### **Uniformity in Discretionary Matters**

Judicial discretion is commonplace in the administration of justice. It manifests itself in the traditional "may" dilemma of the statutory interpretations. Yet, the doctrinally-recognized areas of discretion, sentencing, bail, probation and parole in the criminal law and equitable remedies in civil law, are the prominent areas to focus on. The legal literature abounds in the discussion of dimensions and contours of judicial discretion, such as the primary and secondary discretion, the strong and weak discretion, and discretion in hard cases. However, allowing even for judicial creativity, judicial discretion is neither judicial intuition nor judicial freedom. The judge, even when he is free, is still not wholly free. He is to exercise discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to the primordial necessity of order in the social life. He decides on principle, not precedent. Uniformity, an essential characteristic of legal rules, can only be achieved when the judge uses his or her authority while adhering to the whole philosophy of law and justice and principles of jurisprudence.

### **Learning Objectives**

- To understand the philosophy of law and fundamental issues of jurisprudence
- To understand, the nature, purpose, principles and history of equitable reliefs

- To understand bail jurisprudence and its principles
- To understand sentencing jurisdiction
- To understand probation and parole regime

### **Target Audience**

- Judges and Lawyers

### **Structured Learning**

- **Part A. Jurisprudence**
  - Purposive Approach, Fuller
  - Hart's Concept of Open Texture, Hard Case and Judicial Discretion, Hart
  - Concept of difference between principles and rule, Dworkin
  - Institutional Thesis
  - The Rights Thesis
  - Terms of Strong and Weak Discretion, Dworkin
  - Judges Do not Make Policy Decisions, Dworkin
- **Part-B: Equitable Reliefs**
  - Historical Overview
  - Interlocutory Injunctions: General Principles
  - Interlocutory Injunctions: Specific Areas
  - Mareva Injunctions
  - Anton Piller Injunctions
  - Perpetual Injunctions: General Principles
  - Injunctions to Protect Property
  - Injunctions to Enforce Public Rights
  - Specific Performance: General Principles
  - Specific Performance: Discretionary Defences
  - Specific Performance: Specific Areas
  - Enforcement of Contracts by Injunctions
  - Enforcement of Equitable Court Orders
  - Equitable Damages
  - Equitable Compensation
  - Rectification
- **Part-C: Bail**
  - Bail-General: Meaning, Scope, Basic Rule and Concept
  - Bail for purposes of Evidence
  - Bail for Appearance
  - Remand and Law of Detention
  - Statutory Bail

- Bail inailable Offence
- Bail in Non-Bailable Offence
- Anticipatory Bail
- Transit Bail
- Cancellation of Bail
- Bail in contemplation of and pending Appeals
- Bonds, Sureties and Forfeiture
- **Part-D: Sentencing**
  - Sentence Defined
  - Sentencing Guidelines and Purpose
  - American Experience
  - English Sentencing System
  - Theories of Sentencing
  - Key principles of Sentencing: Consistency, Uniformity, Proportionality and Totality
  - Extant Sentencing Regime
- **Part-E: Probation and Parole**
  - Alternatives to Imprisonment
  - Probation Defined: Conviction and Sentence
  - Objectives of Probation
  - Legal Instruments
  - Applicability of Section 4: The Probation of Offenders Ordinance, 1960
  - Section 4 and Section 6: The Probation of Offenders Ordinance, 1960
  - Social investigation report
  - The scope of Section 5 (Juvenile Justice System Act-life or death sentence)
  - Community Service order

### Learning Outcomes

On completion of the training, we expect to have: -

- Enhanced knowledge of the trainees about exercise of judicial discretion as an issue of jurisprudence
- Improved sensitivity of the trainees to proper exercise of judicial discretion
- Better understanding of the trainees to the principles of grant or refusal of equitable reliefs
- Better understanding of the trainees of bail jurisprudence
- Better understanding of the trainees of sentencing jurisdiction

- Better understanding of the trainees of probation and parole legal regime
- Trainee's recognition of the importance of uniformity in exercise of judicial discretion
- Court's exercise of judicial discretion based on adherence to the philosophy of law and principles of jurisprudence
- Improvement in quality and efficiency of judicial system

### Required Reading

- The Constitution of Islamic Republic of Pakistan, 1973
- High Court Rules and Orders
- The Probation of Offenders Ordinance, 1960 and the Rules
- Good Conduct Prisoners, Probationer Release Act & Rules
- Juvenile Justice System Act, 2018
- Jurisprudence: The Philosophy of Law: Textbook, *Michael Doherty*
- Learning Legal Rules, *James Holland and Julian Webb*
- Islamic Jurisprudence, *Imran Nyazee*
- *Islami-Qanun-e-Faujdari*, Abdul Qadir Auda
- Law of Injunctions, *Nelson*
- The Specific Relief Act, *M. Mehmood*
- Law of Bail, *Shaukat Mehmood*
- How Judges Sentence, *Geraldine*
- Sentencing and Criminal Justice, *Ashworth Andrew*
- Punishment, Prison and the Public, *Cross Rupert*
- Judges Attitudes in Sentencing: A Study of the Factors Underlying the Sentencing Practice of the Criminal Courts of Philadelphia, *Green Edward*

### Recommended Reading

- Law in the Making, *Austin*
- Legal Philosophies, *Harris*
- Introduction to Jurisprudence, *Lloyd*
- The Concept of Law, *H.L.A Hart*
- Taking Rights Seriously, *Ronal Dworkin*
- The Morality of Law, *Lon. F. Fuller*
- The Concept of a Legal System, *Joseph Raz*
- Specific Relief Act, *Justice A.K Nandi*
- Effecting Change in Khyber Pakhtunkhwa Probation Regime by Research Society of International Law Pakistan

## **Module 2**

### **Tools of Expeditious Adjudication**

The Constitution of the Islamic Republic of Pakistan guarantees inexpensive and expeditious justice. Regrettably, however, the justice system suffers from the vices of cost, complexity, and delay and is in a state of crisis. The root causes may be many, yet judicial case management has gained worldwide acceptance as a time-tested panacea. Case Management Rules are now a feature of the Procedural Codes of all the Common Law countries. No wonder early identification of issues, pre-cognizance scrutiny, summary judgments, and scheduled trials contribute to swift and timely adjudication of disputes.

### **Learning Objectives**

- Clear understanding of the role of judge in understanding the matter-in-controversy through the use of examination of the parties and discovery etc.
- Pre-Cognizance Scrutiny and judging appropriateness of trial
- Summary Judgement and its significance
- Trial scheduling and its significance

### **Target Audience**

- Judges and Lawyers

### **Structured Learning**

- Part-A Civil
  - Historical Perspective
  - Rationale of the Rules
  - Summons for final disposal
  - Identifying and Narrowing the Issues: Examination of Parties, Discovery, Affidavits
  - Alternative Dispute Resolution: Various Modes & Procedures with special focus on Mediation Skills
  - Summary Judgment
  - Trial Scheduling
  - Conduct of Summary Trials: Focus on cases under O. 37 CPC & SCMO Cases
- Part-B Criminal

- Pre-Cognizance Scrutiny
- Discharge
- Charge Framing
- Trial Management
- Dealing with SCMO Cases

### **Learning Outcomes**

On completion of the training, we expect to have:-

- Enhanced knowledge of the trainees about summary judgments
- Increase in ratio of summary judgments
- Enhanced knowledge of the trainees about trial scheduling
- Improved sensitivity of the trainees to pre-cognizance scrutiny and appropriateness of charge
- Trial scheduled and concluded in an agreed and definite time framework
- Improvement in quality and efficiency of justice system

### **Required Reading**

- Civil Procedure Code, *Amer Raza*
- Criminal Procedure Code, *Shaukat Mehmood*
- High Court Rules and Orders
- KP Civil Case Management Rules
- Case Management Handbook, Law Council Australia
- Case Management Rules of Common Law Countries

### **Recommended Reading**

- Criminal Procedure, *Sheikh Abdul Haleem*
- Civil Procedure Code, *Justice Thakker*
- *Hryniak v. Mauldin*. 2014 SCC
- Trilogy, *Celotex*

### **Module 3**

#### **Judgment Writing Skills**

A judge must consider a variety of factors when making decisions, including knowledge of human behavior, social norms, rules of interpretation, and case law. Besides, he must be well versed in both substantive and procedural laws.

But all of this would be for naught if the judge is unable to present his thoughts in a clear, coherent, and concise manner.

### **Learning Objectives**

- To understand the statutory requirements of judgment writing
- To understand the elements of judgments writing and their sequence
- To understand principles of appreciation of evidence
- To understand interpretation of law
- To understand the applicability of case law
- To understand principles of effective communication

### **Target Audience**

Judicial Officers

### **Structured Learning**

#### **Judgment Writing: General**

- Essential Requirements
- Language
- Title, Heading
- Sketchy
- Use of Couplets
- Quoting Extracts
- Long or Laboured
- Use of abbreviations or Codes
- Emotion or Sentiments
- Reference to documents, commentaries, thoughts of creative writers, law reports, online databases
- Criticism of witnesses
- Demeanour of witnesses
- Remarks
- Conclusion

#### **Judgments in Civil cases**

- Opening Sentence
- Narration of Facts
- Issues
- Discussion of Evidence
- Applying law



- Findings with reasons
- Summing up
- Relief
- Costs

### **Judgments in Criminal Cases**

- Essential Matters
- How begins
- Statement of Facts
- Points to determine
- Discussion of Evidence
- Applying law
- Findings with reasons
- Operative Portion
- Punishments

### **Judgments in Appeals**

- Essentials
- Beginning
- Facts
- Points to determine
- Reasons for finding
- Discussion and Analysis of Evidence
- Relief
- Costs

### **Learning Outcomes**

On completion of the training, we expect to have:-

- Enhanced knowledge of the trainees about the basic principles of good judgment writing
- Improved sensitivity of the trainees to the proper exercise of judicial discretion
- Better understanding of the trainees of principles of appreciation of evidence
- Better understanding of the trainees of applying law to the facts
- Better understanding of the trainees of operation of precedents
- Better understanding of the trainees of principles of effective communication and its importance in judgment writing
- Improvement in standard of judgment writing

- Improvement in quality and efficiency of justice system

### **Required Reading**

- Judgments and How to Write them, *S.D Singh*
- Criminal Procedure Code, *M. Mehmood*
- Civil Procedure Code, *Amer Raza*
- Law of Evidence, *Justice Muneer*
- Understanding Statutes, *S.M Zafar*
- Learning Legal Rules: *James Holland and Julian Webb*
- Handbook of Technical and Scientific Writing, *Mayfield*

### **Recommended Reading**

- Legal Writing, *Chief Justice Beverly McLachlin*
- On the Writing of Judgment Writing, *Justice Michael Kirby*
- Judgment Writing, *Sir Henry Gibbs*
- Why Write Judgment?, *Sir Frank Kitto*
- Judicial Opinion Writing, *Judge Gerald L. A. Vasi and Lisa Solomon Ethical*
- Judgment Writing, *Justice Roslyn Atkinson*
- A Matter of Judgement, *Justice Linda Dessau and Judge Tom Wodak*
- The Form and Language of Judicial Opinion, *Lord Roger of Earlferry*
- Judges Writing Style, *Richard A. Posner*

## **Module 4**

### **Legal Writing**

The importance of pleadings in the administration of justice needs no emphasis. Properly drafted pleadings bring the controversy to clarity, enabling the court to decide the cases justly and expeditiously. It is trite that the party is expected to prove the case as alleged by him. Thus every practicing lawyer appreciates that the art of pleadings is the skill he must necessarily possess. For the pleadings to be free from the vices of abusive, irrelevant, reckless statements, unfounded charges of fraud, baseless justification, and intentional misstatements, a lawyer needs to grasp fundamental principles of pleadings and principles of effective communication.

### **Learning Objectives**

- To understand the importance of pleadings
- To impress upon the necessity of proper client interview and scrutiny of relevant records
- To understand the basics of pleadings
- To understand principles of effective writing

### **Target Audience**

- Lawyers

### **Structured Learning**

- Importance of pleadings
- What is pleading
- Object and Purpose of Pleadings
- Functions of Pleadings
- Language of Pleadings
- Particulars in Pleadings
- Pleadings and proof
- Inconsistent pleadings
- Pleadings vary from evidence
- Doctrine of relation back
- Legal Pleas
- Alternative pleas
- Relief to be founded on pleadings
- Amendments of pleadings
- Striking out pleadings
- Classes of parties
- Cause of action and jurisdiction
- Presumptions
- Onus of Proof
- Interest and cost

### **Learning Outcomes**

On completion of the training, we expect to have:-

- Enhanced knowledge of the trainees about importance of pleadings
- Improved sensitivity of the trainees to the proper interview of the clients and assessment of record

- Better understanding of the trainees of principles of effective communication
- Expeditious adjudication resulting in summary judgments
- Increased Use of ADR
- Properly formulated issues
- Improvement in service delivery by justice sector

### **Required Reading**

- Civil Procedure Code, *Amer Raza*
- High Court Rules and Orders
- Law of Pleadings, *Mogha*
- Pleadings Without Tears: A Guide to Legal Drafting under the Civil Procedure Rules, *William Rose*,
- Pleadings and Practise, *NS Bindra*
- Handbook of Technical and Scientific Writing, *Mayfield*

### **Recommended Reading**

- Civil Procedure Code, *M. Mehmood*
- Civil Procedure Code, *Justice Thakker*
- Pleadings in Indian Courts, *Pundit Sheo Narain*

## **Module 5**

### **Advocacy Skills**

Advocacy skills involve two distinct roles, the presentation of evidence and forensic persuasion. A lawyer presenting evidence has the opportunity to dissect human character and motives, to distinguish between sincerity and sham, the genuine and the spurious, truth and false. More than that, he has the opportunity to serve the noble cause of justice by bringing before the court nothing but the whole truth. Moreover, evidence alone fails to attain full significance without forensic persuasion. All the more the two skills do not come by grace but must be assiduously cultivated.

### **Learning Objectives**

- To understand the principles of examination-in-chief, cross and re-examination
- To understand skills of forensic persuasion

### **Target Audience**

## Lawyers

**Structured Learning**

- Relevancy, Admissibility, Weight and Proof: The Principles and Distinctions
- Hearsay and Exceptions
- Burden of Proof and Presumptions
- Direct Examination - The Fundamentals
- Form of the Question, Inflection, Body Language
- Cross Examination - The Fundamentals
- Examination of Witness - Direct and Cross (Exercise)
- Impeachment: Bias, Prejudice and Motive, Prior Untruthful Acts, Prior Conviction, Prior Inconsistent Statements
- Refreshing Memory and Past Recollection
- Forensic Persuasion

**Learning Outcomes**

On completion of the training, we expect to have:-

- Enhanced knowledge of the trainees about the law of evidence
- Improved sensitivity of the trainees to the proper conduct of witness examination
- Better understanding of the trainees of difference in examination of various kinds of witnesses
- Improved Court decorum during examination proceedings
- Availability of better evidence before the court
- Effective communication before the courts
- Improvement in quality and efficiency of justice system

**Required Reading**

- Effective Advocacy (Legal Skills), Shaw Noel
- Law of Evidence, *Justice Muneer*
- Qanoon-e-Shahdat Order, *Shaukat Mehmood*
- High Court Rules and Orders
- Law of Evidence, *Cross and Tapper*
- The Advocacy Trainer: A Manual for Supervisors

**Recommended Reading**

- Law of Evidence, Field
- Islami-Qanoon-e-Shahdat, Justice Tanzeel-ur-Rehman

**Module 6****Information Technology Skills**

Information technology in its varied manifestations has completely changed the dynamics of the justice sector. Word processors and spreadsheets, to an unimaginable extent, have increased the accuracy and speed of office tasks. Network I.T has revolutionized communication mechanisms. Enterprise I.T has helped redesigning business processes and standardizing workflows, bringing phenomenal changes in case management, record management and evidence management. Advent of Artificial Intelligence (AI) has increased the possibilities for online conflict resolution. Thus quite significantly I.T has enabled the justice sector to realize its core values of fairness, timeliness, impartiality, and independence. Every judicial system hence is obligated to take full advantage of the benefits information technology has to offer.

**Learning Objectives**

- To gain an understanding of fundamentals of computing
- To Gain an understanding and use of word processors and spreadsheets
- To gain an understanding of AI

**Target Audience**

- Judicial officers,
- Court Staff, and
- Lawyers

**Structured Learning**

- Introduction to Computer
- Evolution of Computing
- The World Wide Web
- Computer Systems. Building a Personal Computer.
- Developing and Hosting a Web Page.
- Microprocessor. Binary Numbers & Logic Operations. Lists and Tables.
- Computer Software. Operating Systems. Interactive Forms. Application Software. Word Processing. Algorithms, Objects,

Properties and Methods. Programming languages. Software Development Methodologies. Data Types and Operators. Spreadsheets. Flow Control and Loops. Design Heuristics. Web Design for Usability. Arrays.

- Computer Networks. Introduction to the Internet. Function and Variable Scope. Internet Services. Developing Presentations. Event Handling. Graphics and Animations. Intelligent Systems. Mathematical Methods. Data Management. Database Software. String Manipulations. Cyber Crime. Social Implications of Computing. Images and Animations.
- Use of word processors and spreadsheets
- What is AI and how it is used?
- Case-Flow Management and Information System (CFMIS): Orientation of the Dedicated Software developed by Peshawar High Court
- Evidence through video-link
- Digitization and Record Management

### **Learning Outcomes**

On completion of the training, we expect to have:-

- Enhanced knowledge of the trainees about the uses of ICT
- Increased quality and efficiency of court work including court and case management, record management, evidence management and office work
- Trainee's realization of the importance of ICT in justice sector
- Improvement in quality and efficiency of justice system

### **Required Reading**

- Understanding Computers: Today & Tomorrow, *Deborah Morley etc (Lated Edn.)*
- Microsoft Office 365 & Office 2019: Introductory, *Sandra Cable, Steven M. Freund, Ellen Monk, Susan L. Sebok, Joy L. Starks, and Misty E. Vermaat*
- Artificial Intelligence – A Modern Approach (3rd Edition), *Stuart Russell et al.* Technology for justice: How IT can support Judicial Reform, *Dory Reiling*

### **Recommended Reading**

- Computer Science: An Overview, *Global Edition, Glenn Brookshear, Dennis Brylow*
- MS-Office 2010 Training Guide, *Prof. Satish Jain, M. Geetha*

**Module 7****Maintenance of Judicial Records**

Maintenance of record is considered as the most neglected area and non-observance of the prescribed rules has led to irremediable consequences in shape of piling of unorganized and improper bulk in the Record Room. Hon'ble the Peshawar High Court, Peshawar, has time and again ordered proper compliance of the relevant rules and directives pertaining to maintenance etc of the judicial records. Considering the importance of the subject, Judicial Officers and Court Staff need to be sensitized about and trained to maintain and preserve the records in accordance with the prescribed procedures. Additionally, the stakeholders are also required sensitization about digitization of judicial record under the directives of Peshawar High Court, Peshawar. This training module describes the rules and procedure, addresses the important but neglected areas with common mistakes and identifies officials responsible for maintenance of judicial records.

**Learning objectives**

This module intends to train the stakeholders regarding:

- Purpose of maintenance and compilation of judicial record
- The relevant rules pertaining to the maintenance & destruction of the judicial record
- The standards, relevant to use of paper and writing in judicial proceedings
- Preparation of the prescribed index on judicial record
- Arrangement of judicial file in Part-A and Part-B
- Modes of transmission of record between the Courts/offices and Record Room
- The procedure for inspection of records, pending trial and consigned
- Procedural mandate of consignment of the record in Record Room
- The periods prescribed under the Rules for preservation of the judicial record and registers.
- Mode and manner of destruction of the judicial record and registers
- Procedure of digitization/scanning of judicial record per directive of Peshawar High Court



**Target Audience**

- Judicial Officers,
- Court Staff, and
- Paralegal Staff

**Structured Learning**

Sequence of the discourse shall be following:-

- Objectives of maintenance of Judicial Record
- Preparation of Index and arrangement of Part-A & Part-B of judicial record.
  - Anomalies Currently in practice and ensuing implications
  - Contents of Part-A & Part-B of various judicial records
  - Relevant Rules
- Size and Quality of the paper
  - Common mistakes made in writing and paging
- Digitization of Record
  - Directive of Peshawar High Court for digitization of the judicial record
  - SOPs for maintaining the digitized judicial record.
- Consignment of Judicial Record
  - Erroneous practices employed in consignment
  - Use of Prescribed Challan and importance of relevant entries
  - Relevant Rules and procedure
- Inspection of Record
  - Inspection in practice
  - Relevant rules of appropriate procedure and prohibitions.
- Transmission of Record
- Preservation & Destruction of Records & Registers
  - Record to be maintained in Perpetuity
  - Periods prescribed for destruction of records & registers
  - Procedures of Destruction
- Maintenance & Consignment of Registers of Paralegal Staff
  - Rules & Procedures for Maintaining the Records
  - Surveillance of the relevant record/registers

**Learning Outcomes**

On completion of the training, the trainees shall be able to:-

- Improve creation, maintenance, preservation, and destruction of record
- Enumerate the periods prescribed under the Rules for maintenance of the judicial record and registers

- Describe the mode and manner of destruction of the judicial record and registers
- Gain better understanding about the procedure of digitization of judicial record
- Demonstrate the requisite skill for better management of records
- Ensure proper maintenance & preservation of the record of paralegal staff
- Improve court records management system and preservation through digitization
- Improvement in quality and efficiency of justice system

### **Required Reading**

- High Court Rules & Order (Civil) Vol. IV Chapter-5, Part-C
- High Court Rules & Order (Civil) Vol. IV Chapter-16
- High Court Rules & Order (Civil) Vol. IV Chapter-24
- The Destruction of Record Act, 1917
- Judicial Estacode: Directives of the Peshawar High Court
- Rules and Instructions relevant to Petition Writers, Oath Commissioners and Notary Public

### **Recommended Reading**

- Trial Court Record Manual California Courts

## **Module 8**

### **Process Serving Agency: Skills of Proper & Timely Execution of Processes**

The Process Serving Agency plays a crucial role in the justice sector. A strengthened process serving agency contributes to expeditious, inexpensive and impartial justice. Considering the importance of the process serving agency, it is essential to enhance its capacity to execute processes with promptitude and in accordance with the Rules. With the incorporation of modern devices as means of process serving, advanced training of the members of the Agency is also a need of hour.

### **Learning Objective**

- To understand the statutory provisions of CPC and directives of the High Court pertaining to the process serving
- To understand the utilization of modern devices for speedy service of processes
- To impress upon the consequences of improper service

**Target Audience**

- Judicial Officers,
- Civil Nazir,
- Naib Nazirs,
- Bailiffs, and
- Process Servers

**Structured Learning**

- Duties of Civil Nazir, Naib Nazir, Bailiff and Process Server: High Court Rules And Orders
- Types of Processes
- Registers
- Affidavit of Process Server
- Different modes of service
- How to conduct effective service of processes
- Scale of process fee
- Police assistance in execution of warrants
- Processes in criminal cases
- Financial duties: Sheriff Petty Account

**Learning Outcomes**

The discourse will enable the trainee to:

- Improvement in the knowhow of effective service of process
- Resort to the new mode of services.
- Avoid mistakes which become the causes of delay, remand and other legal consequences resulting from the improper service of process.

**Required Reading**

- Code of Civil Procedure, 1908.
- Code of Criminal Procedure, 1898.
- High Court Rules and Orders.
- Judicial Estab Code

**Recommended Reading**

- Urdu Hidayaat baraye amla zile Adliya Khyber Pakhtunkhwa, compiled by Mr. Yahya Zahid Gillani, Former District and Sessions Judge, Published by Access to Justice Program
- Rehnomaye Usool Barye Paida Gaan, Bali Fan waa Naziraan Wagiaraa, Published by Peshawar High Court, Peshawar

- Amomee Qanoon-e-Zawabit Tamil Qunandagan or Bailiff Sahiban Ki Liye, published by Punjab Judicial Academy.

## **Module 9**

### ***Diary Management Skills***

The Case Management Rules envisage novel and distinct conferences and trial scheduling mechanisms. Trial preparation is scientifically planned with the active participation and consent of parties and lawyers. Diary Management Database and the Revenue Record Cell are used as facilitation tools. The actual dates are a timetable with a daily hearing feature. All of this necessitates dexterity and foresight not only on the part of the presiding officer but the reader of the court to be well aware of the niceties of the new legal regime in addition to his core duties.

### **Learning Objectives**

- To understand the duties of the reader mentioned in the High Court Rules and Orders
- To understand the duties of the reader vis-a-vis diary management under the case management rules and Five Years Policy of the High Court

### **Target Audience**

- Readers

### **Structured Learning**

- Handling of Files
- Preparation of Daily Cause list
- Display of Cause List
- Giving *Parcha Yadasht*
- Arrangement of the files per Cause list
- Checking of the pleadings and court fee
- Signing of summons, if so authorized
- Reader' Note about service of process
- Timely intimation to the parties and witnesses of the next date in case of absence of presiding officer of unexpected holiday
- Noting the number of the case on an application involving deposit in sheriff petty account
- Certificate of subsistence allowance
- Communication and dealing with the public, litigants, other staff members, and lawyers

- Managing Conferences
- Diary Management
- Maintenance of Registers
- Keep the list of approved commissioners
- List of approved newspapers for publication
- Maintenance of Attendance Register and casual leave record
- Issuance of Fine Receipt, entries in the fine register and monthly reconciliation
- Conciliation of the registers and overall supervision of the staff
- Maintenance of Stock, library and relevant Registers

### **Learning Outcomes**

On completion of the training, we expect:

- Improved knowledge about the trainee's bout their duties in the High Court Rules and Orders
- Improved knowledge of the trainee's about scheduling conferences and trial management under the case management rules
- Personal grooming of the readers to work efficaciously with successful output
- Progression in teamwork and collaboration
- Improvement in the quality of the justice system

### **Required Reading**

- High Court Rules and Orders
- Judicial Estacode
- Five Years Policy of the Peshawar High Court

### **Recommended Reading**

- *Urdu Hidayaat baraye amla zile Adliya Khyber Pakhtunkhwa*, compiled by Mr. Yahya Zahid Gillani, Former District and Sessions Judge, Published by Access to Justice Program
- *Rehnomaye Usool Barye Paida Gaan, Bali Fan waa Naziraan Wagiaraa*, Published by Peshawar High Court, Peshawar
- *Amomee Qanoon-e-Zawabit Tamil Qunandagan or Bailiff Sahiban Ki Liye*, published by Punjab Judicial Academy.

### **Module 10**

#### **Disciplinary Proceedings**

Civil service is considered the backbone in delivery of services to the nation. To have an efficient human resource and to maintain the discipline therein is

the hallmark for achieving the above objective. Efficiency and discipline are a correlative concept in the civil service, therefore to have internal accountability thereof, a foolproof, transparent process of investigation into the allegations of inefficiency and misconduct, and other ancillary issues are important. Unfortunately, such objectives are not met when the officials conducting the disciplinary proceedings do not have first-hand knowledge of the statutory mandate of disciplinary proceedings including fact-finding, regular and discreet inquiries, charge-sheet, statement of allegations, role of departmental representative etc. This module aims to provide knowledge of the rules and procedures of the disciplinary proceedings and to highlight the patent common errors occurring mainly due to incompetence issues affecting the objective culmination of the proceedings.

### **Learning Objectives**

- To understand misconduct and inefficiency parameters
- To understand the repercussion of delayed or improperly conducted disciplinary proceedings
- To appreciate the domain of Competent and Appellate authority, Inquiry Officer, inquiry committee and their respective role in departmental proceedings.
- To comprehend different kinds of inquiries i.e. discrete, fact finding and regular inquiries and their domain, scope, and procedure
- To appreciate the circumstances in which regular inquiry dispensed with and where it is essential.
- To gain conceptual clarity of charge sheet, statement of allegations and show cause notice, differences therein and their mode of services upon the accused officer/official.

### **Target Audience**

- Judicial Officers

### **Structured Learning**

- Laws governing disciplinary proceedings
- Definition of delinquent official/accused, competent authority, inquiry committee and inquiry officer
- Concepts of Misconduct and Inefficiency
- Grounds of action
- Distinction between fact-finding, regular and discreet inquiry
- Show-cause notice, reply and findings
- Charge sheet and statement of allegations
- Enquiry proceedings: necessary legal prerequisites

- Powers of Inquiry officer, Competent Authority
- Major and Minor Penalties
- Departmental Appeals and remedies

### **Learning Outcomes**

On the completion of training, the trainees shall be able to: -

- Demonstrate knowledge of the inquiry proceedings as per the law and rules
- Effect play their respective role as Competent Authority, Member of Inquiry Committee, and Inquiry Officer
- Contribute to improved service discipline
- Improvement in efficacious outcomes of the disciplinary procedures

### **Required Reading**

- The Constitution of Islamic Republic of Pakistan, 1973
- The Khyber Pakhtunkhwa Civil Servant Act, 1973
- The Khyber Pakhtunkhwa Judicial Service Rules, 2001
- The Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.
- Instructions by Peshawar High Court, Peshawar. Judicial Esta-Code: Section-02 (Judicial Officers Conduct and Discipline)
- Establishment Code 2011 of Government of Khyber Pakhtunkhwa
- A Compendium of Laws and Rules containing Efficiency and Discipline Rules, Pakistan Public Administration Research Centre, Establishment Division, Cabinet Secretariat Islamabad, 2012

### **Recommended Reading**

- Fundamental law of Pakistan, *A.K. Brohi*
- Civil Services in Pakistan, *Dr. Agha Iftikhar Hussain*
- Manual of ACRs Instructions of Government of Khyber Pakhtunkhwa

## **Module 11**

### ***Supervisory Role of Magistrate in Pre-trial Proceedings: Skill Sets***

Crimes are investigated by the police and during the investigation the police interact with the Judicial Magistrates. The scheme of the Code of Criminal Procedure, 1890 (hereinafter referred as the Code) is designed to observe protection of rights of the accused during pre-trial proceedings. The Code provides for independence of the police officers in the investigation process and noninterference of the judiciary therein, albeit close supervision through Judicial Magistrate to ensure fairness in the investigation. In order to perform

such duties, judicial Magistrates are vested with certain powers and functions such as recording of statements, grant or otherwise of the police/physical remand, sending the seized objects for forensic laboratories, procuring of the specimen signatures and hand writing of the suspects for sending them to the experts for analysis, identification parades etc. The object behind entrusting this kind of functions of Judicial Magistrate is to enhance credibility of the evidences collected during investigation. Judicial Magistrate has the power to order the investigation and in certain circumstances he can order stopping of investigation as well.

This module provides an overview of supervisory function of Judicial Magistrate. It intends to address to all the pre-trial tasks which a Judicial Magistrate undertakes and also pin-points the common mistakes made and omissions occurred leading to ineffectiveness of the role.

### **Learning Objective**

- Sensitizing the trainees to play the desired supervisory role and & persuading them to improve the way they perform
- Enhancing skills & building capacity of the trainees in conduct of pre-trial proceedings
- Identifying common decision-making points during pre-trial proceedings where an understanding of domain might affect how to make decide and what to decide
- Streamlining investigation proceedings through active & effective magisterial supervision within legal mandate
- Ensuring expeditious & timely submission of final/interim reports
- Restoring public confidence in Courts

### **Target Audience**

- Judicial Officers

### **Structured Learning**

- Scheme of the Code in transmission of information to Magistrate
- Recording of FIR and its dispatch to the Magistrate
- Complaint Case: Initial Proceedings
- Statement u/s 200 Cr.P.C
- Sending of complaint to police/others u/s 202 Cr.P.C
- Investigation by police/others
- Submission of report
- Issuance of process
- Indefinite, unwarranted & offending delay in conclusion of investigations



- Safeguarding the Rights of the Accused on Arrest
  - Production of accused within 24 hours from the time of his arrest
  - Whether arrestee is harassed during the period during the detention
  - Disclosure of information of the grounds and reasons for arrest to accused
  - Disclosure of informed of arrest to the relatives of the accused
  - Need of any medical examination etc to person arrested
- Searching for persons wrongfully confined
- Grant of Police or Judicial Custody
  - Criteria to be observed to exercise discretions: Whether police custody is required or not?
  - Mandate to be followed
  - Whether Judicial Magistrate has jurisdiction?
  - Medical examination of the accused
  - Case of female accused
  - Duration of the Police Custody
  - Copy of the order to Sessions Judge
  - Transit Custody
  - Writing of the Orders
- Power to order Investigation
  - Non-cognizable Cases
  - Section 156 (3) of Cr.P.C.
- Recording of statements
  - Statement u/s 164 Cr.P.C
  - Judicial Confession u/s 164/364 Cr.P.C, etc.
  - Recording of Dying Declaration
- Determination of age of victim and accused
- Medical Examination of the accused, in case of alleged lunacy
- Exhumation Proceedings
- Identification Parade
- Cases based on suspicion
  - Inquest u/s 174 CrPC
  - Application for permission for conducting enquiry u/s 523/550 Cr.P.C
  - Unqualified Permission by Magistrate
  - Enquiry/investigation Report
  - Arrest on suspicion
  - Seizure of property
  - Report to Magistrate
  - Custody & production

- Disposal of property
- Discharge of Accused
  - Section 63, 169 and 173 (3) of Cr.P.C.
- Completion of investigations within the time specified by law
  - Final Report within statutory period
  - Mandatory Interim Report
- Cognizance of offence (S.190 Cr.P.C)
- Sending up/Forwarding of the Challan in Sessions Trial Cases
- Taking Cognizance and proceeding with the case

### **Learning Outcomes**

- Improvement of trainees' skill to effectively supervise the investigation process
- Able to identify and appropriately address factual, legal, procedural, and resource issues that arise frequently during pre-trial proceedings
- Erroneous proceedings shall be curtailed, leading to efficacious investigation proceedings
- Assessment of importance of role of Judicial Magistrate
- Ensuring safeguard to rights of persons arrested
- Improvement in quality of justice delivery system

### **Required Reading**

- Code of Criminal Procedure, 1890, *Shaukat Mehmood*
- High Court Rules and Orders (Criminal)
- Khyber Pakhtunkhwa Police Act, 2017
- Investigation for Fair Trial Act, 2013
- Constitution of Pakistan, 1973 (Fundamental Rights)
- Directives of Peshawar High Court (Judicial Estab Code)

### **Recommended Reading**

- Code of Criminal Procedure, 1890, *Sheikh Abdul Haleem*
- Criminal Practice, *Sheikh Abdul Haleem*

## **Module 12**

### **Code of Conduct of Government Servants**

Human resource is critical for the efficiency of the department. Government officials have a responsibility to the State and its citizens to display unconditional loyalty to the laws and public interest above personal interest. They must possess unblemished character. They need to know what are the Codes regulating their conduct and what constitutes its violation. Ignorance

about and violation of such norms may bring a bad name to the officer's integrity on the one hand and repute of the institution on the other. Awareness of the prescribed norms has become exceptionally important with recent technological advancements in our daily life. The module aims at creating awareness of the officers about the laws and rules pertaining to their conduct and inculcating sensitization of strict observance.

### **Learning Objectives**

This module is design to train the personnel of justice sector regarding:

- Observance of relevant law, rules, regulations and instructions on the subject
- To bring into their knowledge those acts and omissions which amounts to misconduct.
- To avoid the misuse of technology by interacting with irrelevant quarters.

### **Target Audience**

Judicial Officers, Court Staff

### **Structured Learning**

- Law governing Code of Conduct of Government Servants
- Gifts and Gratifications
- Funds Raising
- Declaration of Property
- Private trade
- Involvement in criminal cases
- Communication and use of technology
- Approach of foreign missions
- Instructions of Peshawar High Court

### **Learning Outcomes**

At the conclusion of the session, the trainees will be able to:

- To maintain service discipline.
- Create better working environment.
- To make district judiciary a better service delivery institution

### **Required Reading**

- The Constitution of Islamic Republic of Pakistan, 1973.
- The Khyber Pakhtunkhwa Civil Servant Act 1973.
- The Khyber Pakhtunkhwa Government Servant (conduct) Rules, 1987.

- Instructions by the Hon'ble Peshawar High Court, Peshawar. Judicial Esta Code Section 02 (Judicial Officers Conduct and Discipline).
- Establishment Code 2011 of Government of Khyber Pakhtunkhwa

### **Recommended Reading**

- Fundamental law of Pakistan, *A.K. Brohi*
- Civil Services in Pakistan, *Dr. Agha Iftikhar Hussain*
- Manual of ACRs Instructions of Government of Khyber Pakhtunkhwa

## **Module 13**

### **Ethical Standards: Motivation**

“A judicial officer should be God fearing, law abiding, abstemious, truthful of tongue, wise in opinion, cautious and forbearing, patient and calm, blameless, untouched by greed, completely detached and balanced, faithful to his words and meticulous in his functions.” (Code of Conduct)

Public service is a public trust. All the public servant must be God-fearing in dealing with their official as well as private matters. They are also expected to exhibit unconditional loyalty to the State and public interest above personal interest in a dignified manner. Laws based on ethical principles identify the ethical principles to which public officials should be committed and aspire to attain and envisage their character building. Ethical behaviour of officials directly or indirectly influences performance and reputation of the institution. Recognizing the problems regarding integrity and corruption in the institution, ethics training is always considered as useful tool for character building and improving ethical culture in earning *rizq-e-halal*, which ultimately works for preventing corrupt practices and uplifts the quality and performance of the institution.

The foremost aim of ethics training for stakeholders of justice system is to maintain the ethical standards, which would upgrade the public service. Furthermore, ethical capacity is increased by identifying and working to remove obstacles to ethical conduct within the institution and motivating the stakeholders to align their demeanour with the ethical standards. This approach will broaden the consideration of personal integrity in public service to advance the public interest, uphold and strengthen the rule of law, advance social equity, and promote professional excellence. Additionally, the module targets the attitude and emotional intelligence of the stakeholders which include self-motivation, empathy and social skills. This module also addresses utilization of appropriate working environment/equipment and

highlights the legitimate expectations of the stakeholders. Another important area is to provide practical guidance on ethical behaviour in situations the rules do not provide clear answers on how to deal with certain risk situations. Finally the module also addresses the professional services of the Bar and the ethical considerations involved in the administration of justice. The nature of judicial process is not “slot machine operation”. It hinges on the hunch of the bench which itself depends on the way facts are presented, precedents are applied and the statutes constructed. None of it is possible unless the members of the Bar are courageous, intellectually honest and morally sound and independent.

### **Learning objectives**

This value-added module intends to deliberate on:

- Self-development with emphasis on God-fearing trait
- Personality development and character building
- Significance of earning *Rizq-e-Halal*
- Maintenance of the highest standards of integrity and morality postulated by the injunctions of Islam by the trainees in dealings with the stakeholders, and to maintain the same standards in their personal lives
- Advancement of ethical behaviour and character building; and sensitizing the trainees about values, standards, and practices to reinforce ethics in the institution
- Relation between the ethical standards to the objectives and general outlook of the institution in the society and its performance
- Examination of common ethical issues and identification of specific behaviour that fall short of the standard, on the one hand, and that advance the standard, on the other
- Demonstration of integrity and professional excellence as a trustee for the public
- Developing administrative practices and processes which promote ethical values

### **Target Audience**

- Judicial officers,
- Court Staff,
- Lawyer, and
- Paralegal Staff

### **Structured Learning**

- Prescribed Rules and Regulations: Code of Conduct
- Religious, Ethical and Ideological Implications of our Constitution

- Principles of professional ethics and public values
- Significance of ethics in professional life, importance of
- Objective of maintaining ethical behaviour
- Description of various approaches towards Ethical Standards
- Examination of the ethical issues: Differentiate between the ethically good and bad behaviour
- Reasons, why disciplinary proceedings are initiated
  - Corruption & Malpractices
  - Incompetence
  - Violation of Code of Conduct
- Explanation of working culture and environment: What is happening and Why happening?
- Impartiality & due diligence
- Trust and honesty
- Social Obligation and contributions (time, ability, competence)
- Stakeholder' interest and good governance
- Accountability
- Impacts and incentives/appreciation of upholding professional ethics

### **Learning Outcomes**

On completion of the training, trainees are expected to:-

- Have knowledge about standard ethical behaviour, values, and practices to reinforce those standards
- Exhibit improved sensitivity about relationship of the ethical standards to the objective and societal outlook of the institution
- Imbibe character building through self-development
- Acquire better recognition of impacts of earning *rizq-e-halal* and non-observance of ethical standards, individually and collectively
- Display standard ethical behaviour with God-fearing traits
- Have improved beneficence in a professional, litigant conducive environment
- Have improved the quality and efficiency of justice system

### **Required Reading**

- Judicial Estacode: Directives of Peshawar High Court
- Rules, Instructions & Guidelines pertaining to Paralegal Staff
- The Government Servants (Conduct) Rules, 1987
- United Nations Convention against Corruption.
- Bangalore Principles of Judicial Conduct
- The Legal Practitioners and Bar Council Act, 1973 and the Rules, 1976 (For Lawyers)

### Recommended Reading

- Fundamental Law of Pakistan, *Brohi*
- Be A Competent Lawyer, *S. M. Zafar*
- *Mery Mashoor Muqaddamy, S. M. Zafar*
- Ethics Codes and Codes of Conduct as Tools for Promoting an Ethical and Professional Public Service, *Stuart C. Gilamn (oecd.org)*
- ‘A Study on the Civil Service Structure, Civil Servants Training and an Overview of National Commission of Government Reforms in Pakistan’ (*lgkp.gov.pk*)
- Raising the Bar: The Emerging Legal Profession in East Asia, *Henry L. Stimson, Harvard Law School*
- The Tools of Argument: How the Best Lawyers Think, Argue, and Win”, *Joel Tretchmen*

### Module 14

#### Soft Skills

Introduction of formalized judicial education, as internationally recognized norm, addresses the needs to improve professional competence of judges and the institutional needs for performance enhancement. Core job of judiciary is to impart justice. The institution has its own working environment regulating administrative set up. Additionally, judicial officers have to deal with the public litigants, legal fraternity and liaison with other governmental and non-governmental institutions. Trainings of stakeholders therefore require the components which are people-focused. Being ‘people focused’ needs not only legal expertise but necessitates developing interpersonal skills, also known as soft skills. These include leadership, team work, communication, understanding oneself, empathy, innovative thinking, conflict management and stress management. These are **experience based and tend to be more personality-focused**, as opposed to being based on qualifications, technical skills, or vocational experience (hard skills). These intangible skills, considered as the life skills, create a positive environment which enables a person to secure the desired results efficaciously.

Importance of soft skills, often underestimated, is undeniable and constitutes important place in trainings world-wide. A judge with able expertise in legal knowledge, but without the right interpersonal skills may be insufficient to assure a true success. Soft skills, on the one hand, are essential for building and maintaining interpersonal relations and effective communications; and on the other, these influence the professional development.

This module aims to identify the essential soft skills for judicial officers and to practically train them in these skills. Expansion of the scope of soft skills

will deepen the understanding of and commitment to these areas and it will further enhance the likelihood that judicial officers will act more effectively. This training will pave the way for professional excellence and ultimately achieve the goal of institutional accomplishment.

### **Learning Objectives**

This module intends to fulfill the demand of the judiciary by capacity building of the judicial officers, who possess the soft skills and the ability to achieve performance targets through practical team work.

The participants shall be able to achieve the following objectives at the end of this module

- Understanding and proper utilization of the Soft Skills in the day to day life
- The ability to confront the everyday challenges of life confidently & successfully
- The ability to tackle conflict situations and adversaries with ease
- The ability to showcase ones skills in a creative manner
- The ability to identify and showcase ones leadership skills via effective human resource management
- The ability to become an outstanding personality in the social and work environment by skillfully maneuvering individual emotions

### **Target Audience**

- Judicial Officers, and
- Court Staff

### **Structured Learning**

The trainees will be sensitized in the following:

- Leadership and Management
  - Development of strategic plans
  - Change Management
  - Talent development
  - Quality standards
  - Teamwork facilitation
- Teamwork
  - Understanding the benefits of efficient teamwork
  - Identifying capabilities
  - Interaction between the team members
  - Formation of team and assigning roles to members



- Constitution of team strategies and goals
- Developmental changes to increase efficiency
- Communication Skills
  - Modes of Communication
  - Identifying the ways of Communication
  - Practical, effective communication skills—listening, speaking, writing and interpretation.
  - Challenges facing effective communication
  - Challenges of developing a consensus
  - Deficiencies of transparent communications: Openness & Honesty
  - Deficiencies in authority, clarity & understanding
  - Deficiencies presentation skills
  - Environmental influences
  - Body Language
- Development of the communication skills
- Emotional Skills
  - Self-awareness: identifying and managing feelings for appropriate expression
  - Self-confidence: Confidence building tactics
  - Social Awareness & Empathy: ability to recognize other' emotions and needs
  - Relationship management and building trust
  - Stress Management
  - Adaptability/Flexibility: Ability to learn
- Inter-personal Skills
  - Conflict Management
  - Resolution of the interpersonal and intergroup conflicts
  - Best techniques for conflict resolution
  - Problem-solving ability
  - Skills in arriving at decision through deliberation
- Time Management
  - The Art of Scheduling
  - Prioritizing & implementation
  - Managing Distractions
  - Multitasking
- Critical Thinking
  - Logical Reasoning
  - Creative thinking for improvement & problem solving
  - Collaboration & Brainstorming
  - Professionalism and integrity

- Developing administrative practices and upholding professional standards and integrity
- Maintains personal independence and authority
- Promotes highest standards of behaviour in court

### **Learning Outcomes**

On completion of the training, we expect:

- Improved knowledge about the soft skills and their proper utilization
- Upholding personal independence and authority of the officials
- Promotion of the highest ethical standards in the institution
- Personal grooming of the officials to work efficaciously with successful output
- Progression in teamwork and collaboration amongst the members of judiciary
- Improvement in quality of the justice system

### **Required Reading**

- Human Resource Management, *Decenzo and Robbins (9<sup>th</sup> Edition)*, 2007
- Human Resource Management, *Dessler (11<sup>th</sup> Edition)*

### **Recommended Reading**

- Soft Skill Development, *Jamal Mohammed*
- Social Intelligence: The New Science of Human Relationships, *Daniel Goleman*
- Five Levels of Leadership, *John Maxwell*
- Presence: Bringing Your Boldest Self to Your Biggest Challenges, *Amy Cuddy*
- Influencer: The New Science of Leading Change, *Joseph Grenny etc*
- Never Split the Difference, *Chris Voss*
- Getting Things Done: The Art of Stress-free Productivity, *David Allen*

**SECTION – XV**  
**INSTRUCTIONS ON WRITING OF PERs**

C.No. 1(3-15)

**RELEVANT INSTRUCTIONS ON WRITING PERFORMANCE EVALUATION REPORT (PER).**

**0.1 Extent of Application:** The instructions will apply to all Government Servants serving in connection with the affairs of the Province of North-West Frontier except the following who need not be reported upon :-

- (a) Judges of N.W.F.P<sup>1</sup> High Court;
- (b) Members of N.W.F.P<sup>2</sup>, Public Service Commission.

**0.2 How to write PER:** Since the evaluation reports constitute an aid to selection for training, appointments/ transfers, promotions, confirmations or screening of officials, it is essential that these are written most carefully. A Reporting Officer before he embarks on the report writing work, should try to comprehend the characteristics listed in the Performance Report Forms. The report should give a clear picture of the officer reported upon viz personal qualities, standard of performance, dealing with others, potential growth and his suitability for promotion to special posts according to individual aptitude. Similarly, the **Countersigning Officers** should scrutinize the report scrupulously in accordance with the prescribed procedure before countersigning it.

The revised Performance Evaluation Report Form was introduced by the Establishment Division in 1982 to reflect an officer's strong and weak points more objectively and to ensure that such performance evaluation effectively serve its true purpose. The revised form is by now well understood and generally accepted to have improved the quality of reporting. The new form and promotion policy in fact constitute the key elements in personnel administration but their usefulness is ultimately dependent on objective reporting. The attention of Reporting Officers/ Countersigning Officers is drawn to the deficiencies commonly noted in such reports.

**0.3 Manner of Writing the Reports:** Instructions for the Reporting Officers:

- (i) While reporting on your subordinate: -
  - 1) Be as objective as possible.
  - 2) Be as circumspect as possible.

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<sup>1</sup> Now may be read as Khyber Pakhtunkhwa.

<sup>2</sup> Now may be read as Khyber Pakhtunkhwa

- 3) Be clear and direct, not ambiguous or evasive in your remarks.
- 4) Avoid exaggeration and gross understatement.

(ii) State whether any of the defects reported have already been brought to the notice of the officer concerned and also whether he has or has not taken steps to remedy them.

(iii) Fill the form in duplicate by initiating the relevant boxes in both the original and the duplicate copies. If necessary, the R.O views under "Pen Picture" typed. In that case affix his signature at the end of the "Pen picture".

(iv) It has been decided that PERS of the officers should be initiated only by such officers who have the opportunity of seeing the performance of the subordinate officers closely.

**04. Instructions for Reporting Officers:** - In many cases the signature of the Reporting Officers on the reports are illegible. This means that after some time it may, in such cases, be impossible to identify the Reporting Officer. The name and designation of the reporting office should, therefore, invariably be typed or written in block letters on the evaluation reports.

#### **INSTRUCTIONS FOR THE COUNTERSIGNING OFFICERS**

i. The Countersigning Officers should weigh the remarks of the Reporting Officer against their personal knowledge of the officer under report and then given their assessment in Part V. Similarly, if the Countersigning Officers differ with the grading or remarks given by the Reporting Officer in Part III, they should score it out and give their own grading by initialing the appropriate box.

ii. The Countersigning Officer should weigh the remarks of the RO against their personal knowledge of the officer under report, compare him with other officers of the same grade working under different Reporting Officers, but under the same Countersigning Officer and then give their overall assessment of the officer. In case of disagreement with the assessment done by Reporting Officer, a specific reasons should be recorded by the Countersigning Officers in Part IV (2)<sup>1</sup>.

iii. The Countersigning Officers should make an unbiased evaluation of the quality of performance evaluation made by the RO by categorizing the

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<sup>1</sup> This instruction relates to PER form for Officers in BPS-19 and BPS-20.

reports as exaggerated, fair and biased. This would evoke a greater sense of responsibility from the reporting officers.

iv. The Countersigning officers should underline, in red ink, remarks which in their opinion are adverse and should be communicated to the officer reported upon. All adverse remarks whether remediable or irreparable should be communicated to the officer under report, with a copy of communication placed in the CR dossier. Reporting Officers should ensure that proper counselling is given to the officer under report before adverse remarks are recorded.

v. After countersigning the form, return it to the officer responsible for the custody of the character Roll.

**0.6:-** Utmost care should be taken by the Reporting Officer while assessing the qualities and work of their subordinates. Biased or evasive reports are likely to cause incalculable damage to the officers reported upon. The whole purpose of evaluation report is defeated unless the Reporting Officer judge the performance of their subordinates from an absolutely detached and objective point of view. To achieve this objective, it has been provided in the old format that the Countersigning Officer should assess the report itself and categorize it as very good/ reasonably good/ strict /lenient/ biased. This would be conducive to greater sense of responsibility on the part of the Reporting Officer.

**0.7 (i)** The following two points have been raised in connections with writing of an evaluation reports of officers: -

(a) How to determine the performance assessment of an officer in part III of the Evaluation Report from when the assessment of any other officer in the same grade is not known to the Reporting/Countersigning Officer?

(b) Whether the assessment in part III of the PER form in respect of Officers performance is to be determined with reference to his assessment in part II of the form.

(ii) With regard to the first point, it has been decided that where there is only one officer in a particular grade, his assessment of performance in part III may be made independently.

(iii) As regards the second point, it has been observed that in some

cases the assessment of an officer in [Part II and Part III]<sup>1</sup> of the PERS form are not co-related. This inconsistency causes a lot of inconvenience to the DPCs as well as the PSB while reviewing the cases of such officers for promotion to higher-grade posts. To remove this inconsistency, the assessment of an officer in Part III should, as far as possible be based on the assessment made about his personal traits and on the job performance in Part II. If the major number of entries in Part-II are 'good' and in Part III the officer is classified 'average' the Reporting Officer should give detailed reasons for his average assessment. Normally these should be identical.

**0.8 (i)** It has been observed in a large number of cases that Reporting and Countersigning Officers award intermediate grading e.g. "between very good and good and "between good and average", etc. Reporting and Countersigning Officers are directed to adhere to the grading provided in the PER form and not to deviate from these.

(ii) It has also been observed that Countersigning Officers while assessing the reports given by Reporting Officer and having assessed these as strict or lenient do not give their final grading themselves which leads to complications. Countersigning Officers are advised that when they assess the report as strict or lenient they must record their overall assessment of the officer reported upon in their remarks clearly and also preferably change the overall assessment in Part V<sup>2</sup> of the report.

(iii) Many reports have been received which have not been seen by the senior officers in the Department higher than the Reporting Officers. This is clearly undesirable, they should always be countersigned by him in token that he accepts the reports if he does.

**0.9. Avoidance of personal remarks in writing PERs:** It may be impressed upon the Reporting Officers, that in writing such reports, they should take utmost care to ensure that personal remarks are avoided and that reports are written in an objective manner. If, subsequently, despite these instructions, any Reporting Officer indulges in subjective reporting, it will be open to his Superior Officers to report adversely on him for having failed to record his remarks in an objective manner.

**1.0 When should a report be written:** Para-0.2 of the Instructions about Evaluation Reports envisages that reports on civil servants be initiated in the first week of January each year by the initiating authority and forwarded to the higher authority in the same week. The higher authority shall give its

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<sup>1</sup> Forms of Officers of BPS-16.

<sup>2</sup> As per new forms of PER.

remarks within one week, so that the report is completed within the month of January each year.

**1.4 Responsibility of the Final Authority to ensure prompt writing of Evaluation Reports:** Generally, the writing of Evaluation Reports gets delayed, which affects the disposal of cases in which it is necessary to consult Character Rolls. This also leads to frustration among the Government servants. The final authority about the writing of Evaluation Report will be responsible for obtaining evaluation reports for the preceding calendar year within the month of January each year. It would then **furnish a certificate** to Establishment & Administration Department that all the evaluation reports which were due to be completed have actually been completed and placed on the Character Rolls. This certificate should reach E&A Department (Secret Section) in the first week of February. The defaulting authority shall be brought to the notice of Government for appropriate disciplinary action.

- (a) Apart from the above instructions E&AD has repeatedly re-iterated the said instructions through circular letters every year so that the concerned officers could be reminded afresh for compliance of the laid down policy instructions. However, despite these repeated instructions it has been noticed with concern that very few officers adhere to the same and resultantly a large number of officers/ officials suffer in cases of their promotions due to the laxity of Reporting/ Countersigning Officers and all others who are responsible for **timely completion** of their service record.
- (b) The competent authority has therefore decided that the following policy guide lines for writing of Performance Evaluation Reports should be followed so that the system could be improved and complications/ repercussions could be avoided in future:-
  - (i) Onus of initiating of PERS will lie on the Reporting Officer.
  - (ii) Section officer (Establishment) of a Department/ Attached Department will place a requisition for the required number of PER Forms with the Printing Press in October each year and the same should be delivered to the Departments as soon as possible but not later than 30th November. The Section (concerned) will send PER Forms to those officers whose record are maintained by them by 15th of December each year.
  - (iii) The particulars at Part - 1 & 2 of the PER Forms shall be filled by the officer/ official concerned to be reported upon.
  - (iv) No Performance Evaluation Reports will be accepted by the Controlling Officer **by hand** from the officer concerned. The same must be dispatched in a confidential envelope.

- (v) The initiating officer of an officer being reported upon will endorse an entry in his PER if he has not initiated the PERs of his immediate subordinates for his failure in doing the needful in time.
- (vi) The **retiring officers** shall be responsible for completing PERs as Reporting or Countersigning Officer and that the Department/Office concerned should render a certificate to this effect before forwarding the pension papers of the retiring officers.
- (vii) Emphasis on safe custody of the Performance Evaluation Reports is once again reiterated with a view that in no case an officer/official should have any access to his own reports. The contents of the report will not be divulged to the Government Servant concerned.
- (viii) Rest of the instructions issued by this Provincial Government regarding procedure for communication of adverse remarks and other related matter shall remain in force.

**1.5 Minimum period for writing of reports:** (i) The minimum period during which an officer is expected to form a judicious opinion about the work of his subordinate for the purpose of writing a report on his work and conduct has been prescribed as three months. The report recorded in respect of period less than the minimum prescribed period should be ignored.

(ii) It has also been observed that some time an Evaluation Report is written to cover part periods covering two calendar years. It is not permissible to do so as in terms of Para 2.29 (ii) of "A Guide to Performance Evaluation", the period of two calendar years cannot be combined to form a single report for the purpose of report writing. If a civil servant has served under a Reporting Officer in two calendar years for a period aggregating to reports-one each for the period of 3 months or more in a calendar year, Evaluation Reports should be written for such periods. If the period under report in one calendar year is 3 months or more and less than 3 months in the other year, the report for the former period only should be written. If the continuous period of service under a Reporting Officer is spread in two years but the part period in each year is 3 months or more two evaluation reports-one each for the period of 3 months or more in a calendar year, should be written.

**1.6 Action when a Reporting Officer or subordinate is transferred:** If the Reporting Officer is transferred during the course of calendar year he should be required to write a report if his transfer occurs more than three months from the date, the last report was due. Such reports must be written before relinquishing charge. The report shall be sent to the higher authority when all the reports for the year have been written. If a subordinate is transferred



during the course of a calendar year and he has worked for more than three months under the Reporting Officer then the latter shall record his opinion. In case he is being transferred from the jurisdiction of the higher authority then the views of the higher authority shall be obtained and forwarded to the Department/Office where a subordinate has been transferred.

**1.7 - Special report:** If a Government Servant is placed on special report for any reason the special report recorded on him should be placed on the character roll.

**1.8 Placing Government Servants on Special Reports:** Whenever the Head of Department is convinced, on good grounds, that the work of a particular Government servant is not satisfactory, the former could put the Government servant concerned, with simultaneous intimation to him, on a special report. A special report on the latter's work would in such an eventuality, be drawn on the expiry of six months irrespective of the fact whether the Performance Report on him becomes due during this period.

If such a special report does not indicate any improvement in the work of the Government servant concerned it would be open to the competent authority to take such action against him as may be permissible under the existing rules.

**2.6 Officer who have worked for less than three months with Reporting Officer:** The question of recording of an Evaluation Report in respect of officer who may not have worked with a Reporting Officer for a minimum period of three months during a year has been considered. It has been decided that in such cases the Countersigning Officer may obtain separate reports from each of the Reporting Officer with whom the officer concerned has worked during the year. After examining these reports should be accepted. Alternatively, he may himself write the report after examining the reports of the Reporting Officers with whom the officer concerned worked during the year. The Establishment Division has classified the above mentioned instructions as under: -

"It is clarified that if major period in a calendar year is spent by an officer under different Reporting Officers for less than three months on each occasion the above mentioned instructions will apply. In case where a major period of the calendar year is covered by regular report, the performance Evaluation Report for a period of less than three months is not required to be initiated."

**2.7 More than one Countersigning Officers:-** Where there are more than one Countersigning Officers during a year, the one who has seen the performance of his subordinates for the major part of the year is entitled to countersigned the Evaluation Reports.

**2.8 Officers under suspension/ absent from duty:-** There is no need to record an Evaluation Report on an officer/ official for the period during which he remained under suspension/ absent from duty.

**2.9 Writing/ Countersigning of PERs by Officer under suspension:-** (i) A question has arisen whether an officer under suspension may initiate or Countersign the PERs of his subordinates. The matter has been considered in the Establishment Division and it has been decided that officers under suspension may not be allowed to write or countersigned the PERs of their subordinates during the period of their suspension.

(ii) **“Political figures who cease to hold their office** are not allowed to write/ countersign Performance Evaluation Report on their subordinates”.

**3.0 Other Officers retired compulsorily:** (i) it has been decided that officers compulsorily retire under Efficiency and Discipline Rules/RSO 2000 or on completing 25 years’ service or under FR 10-A, may not be allowed to write or countersign the PERs of their subordinates.

(ii) A question has arisen whether officers retired compulsorily under Efficiency and Discipline Rules or on completing 25-years of service or under FR 10-A should not be allowed to write or countersign the PERs of their subordinates. Officers can write PERs during the leave preparatory to retirement. After due consideration it has been decided that such officers, if allowed leave preparatory to retirement, should not be allowed to write/ countersign PERs of their subordinates, in that case the procedure laid down in Estt: Division's O.M No. 6/1/70-A.II, dated 17th June, 1972 and 43/1/78-CP-I, dated 21. 5 December, 1978 may be followed for writing of the PERs of the affected official.

(iii) A question has arisen whether officers retired under Section 13(i) of Civil Servants Act, 1973 can initiate/countersign Performance Evaluation Reports of their subordinates or not. After a careful consideration it has been decided that officers so retired may not be allowed to write Performance Evaluation Reports of their subordinates. For writing of PERs of affected subordinates procedures laid down in Estt: Division's Office Memoranda No. 6/1/70-A.II, dated 17th June, 1972 (*For ready reference, letter is reproduced hereunder*) and No 4371/78-CP- I, dated 21st December, 1978 (*For ready reference, letter is reproduced hereunder*) may please be followed.

**[Officers retired under MLR 58 and MLR 114: -** *The question as to who should write or countersign the evaluation reports which the officers retired under MILR 58 and MLR 28 114 were supposed to write had they not been compulsorily retired, has been considered in the Establishment Division and it has been decided that the following procedure should be followed in getting the reports in question written or countersigned:-*

- (i) *The Reporting Officers who have been compulsorily retired will not write or countersign any report on their subordinates. In such cases the next higher officer may initiate the report provided he has seen*

*the performance of the officer reported upon for a minimum period of 3 months.*

- (ii) *The report initiated under sub-para (i) above will be countersigned by the officer higher than the reporting officer, if available, provided that the former has personal knowledge about the performance of the officer concerned. In case no countersigning officer be available to countersign, the report will not be countersigned and the circumstances under which the report could not be countersigned will be mentioned in Part-IV of the report indicating the name of the officer who was supposed to countersign the report had he not been retired under MLR 58 and MLR 114.*
- (iii) *In case both the reporting officer and the countersigning officer have been compulsorily retired, the officer higher than both of them, if available, may initiate the report and the next higher officer, if any, will countersign it. In a case like this both the reporting and the countersigning officers should have personal knowledge about the officer concerned. In case no countersigning officer be available, the fact should be noted in Part IV of the form.*
- (iv) *When no officer is available to write or countersign the report, the Administrative Division may make a reference to the Establishment Division, as to how the situation can be met. It is, however, to be ensured as far as practicable, that the report, does not remain unwritten.*

*[Extract from O.M. No. 6/1/70-A. 11, dated 2-3-1970 and O.M. No. 6-5-72-A. 11, dated 17-6-72.*

***Writing/ countersigning of PERs by retired or expired Officers.-*** *It has been decided that as in the case of Government Officers who are transferred, the officers proceeding on retirement, whether voluntary or on attaining the age of superannuation, should be asked to write/countersign reports on the officers and staff who have worked under them for more than three months, before their retirement. If an officer proceeds on retirement without writing/ countersigning the reports and cannot be contacted or fails to oblige despite repeated requests, the following procedure should be adopted:*

1. *The officer who would have countersigned, had the report been initiated by the retired officer, should initiate the report provided he*

*has seen work of the officer reported upon, for a minimum period of three months. The next higher officer, if any, should countersign it.*

2. *If the report has already been initiated but the countersigning officer has retired, the next higher officer, if any, should countersign, provided he has personal knowledge of the work of the officer concerned.*
3. *If both the initiating and the countersigning officers have retired, the officer next higher than both of them, if any, should initiate and the next higher officer, if any, Should countersign it. In such cases both the initiating and countersigning officers must have personal knowledge of the work of the officer reported upon.*
4. *In case the report cannot be initiated at all, a suitable note to this effect be recorded in the C.R. dossier. If the report has been initiated but cannot be countersigned, the reasons, therefore, be recorded in Part IV of the PERs.*

*[O.M. No. 43/1/78- CP. I dated 21st December, 1978.]*

**3.1 Character Roll:** A face-sheet should be inserted at the beginning of each character Roll giving the following information:-

1. Name and Qualifications
  2. Father's Name
  3. Date of Birth
  4. Place of domicile
  5. Place where immovable property, if any is held
- (i) Forms for the writing of reports have been prescribed in appendixes "A to K". The reports should be written on one of these forms according to the nature of posts held by the Government Servant reported upon. The date on which the report is signed should also be given.
  - (ii) The report if written in hand should be legible; the name and designation of the Reporting Officer should be clearly written in block letters or typed under the signatures. The date of which the report is signed should also be given.

**3.2. Revised Performance Evaluation Forms:-** The competent authority has been pleased to approve a revised and separate PER Form, for officers in BS-17/18, BS-19/20 and BS-21. It may be observed that PER Forms have been trifurcated and colour coded. This is indicative of the fact that evaluation criteria for lower management, middle management and higher management

posts is clearly distinguishable and in line with the job requirements of the posts at different levels.

It may be intimated that the revised format of PER shall come into force w.e.f 1st January 2001, meaning thereby PERs for the year 2000 shall be initiated on the revised format.

Reference Establishment Division O.M No. 1/10/2000-DS (Coord) dated the 18th August, 2000. A detachable certificate shall be affixed to the revised format of the PERs. Samples of certificate already provided to all Administrative Secretaries.

The officers being reported upon would be required to fill in the Name/Designation of their Reporting and Countersigning Officers and dispatch the certificate to the officer-in-charge entrusted with the maintenance of their evaluation records on the same date the PER is forwarded to the Reporting Officer.

This shall enable the controlling Department to ensure follow up and prompt retrieval of PERs from the Reporting/Countersigning Officers.

The guidelines for filling up the PERs have been printed on the reverse page of the PER Proforma.

**3.3 Reporting by Relations:** Whenever a Reporting Officer is related to the officer reported upon, this fact should invariably be mentioned in the evaluation report and he should submit the case to the higher officer for writing of report with recording his remarks.

**3.4 Report on Integrity:** Integrity is the most important trait of character of a Government servant. It should be assessed without fear or favour. The report should not be vague, but definite. An officer may be reasonably believed to corrupt, if-

- (a) he has a general and persistent reputation of being corrupt; or
- (b) any of his dependents or any other person through him or on his behalf is in possession of pecuniary resources or property disproportionate to his own sources of income or which he cannot account for satisfactory; or

**Explanation:** The dependents will include wife/ wives, children, step-children, parents, sisters and minor brothers, residing with and wholly dependent on the reported officer.

- (c) He has assumed a style of living beyond his means if any official dabbles in politics it should be specifically brought out in the general remarks.

**3.5 Action in case of Inquiry, Communication of Displeasure:**

- (a) If a formal inquiry is ordered against the Government official during

the year under report, the fact must be mentioned in the report. Similarly, final order passed as a result of the inquiry should be placed on Character Roll.

A censure or any other punishment imposed on a Government Servant as a result of formal inquiry under the Efficiency and Discipline Rules/ RSO, 2000 should also be placed on the Character Roll. Similarly, the result of an appeal, if filed, should also be reflected in the report.

(b) In partial modification of the instructions contained in the Establishment Division's O.M.No 9(4)/54- SE, dated 27.9.1954 it has been decided that:

- (i) On initiation of disciplinary proceeding against an officer, a copy of original order/showcause notice should be placed on his CR Dossier.
- (ii) If an officer is exonerated or some punishment is awarded, a copy of the final order should be placed on the dossier as per instructions 5.1 (a)(b) and (c).

**3.6 Warning/Counselling:** it has been noted that the requirement of warning/counselling are not being fulfilled before recording adverse remarks in the PERs of the Government Servants. Resultantly, these are expunged under the orders of the NWFP Service Tribunal.

In order to minimize litigations, the Provincial Government have reviewed the position and have decided that:

- (a) Counselling may be ensured in all cases before initiation an adverse report or grading the PERS;
- (b) The officers who give adverse remarks without any solid grounds shall be personally held responsible for deviation from rules;
- (c) Non-observance of the Government instructions amounts to misconduct under clause (e) of Sub-rule (1) of rule 2 of the NWFP Civil Servant (Efficiency and Discipline) Rules, 1973 and can attract disciplinary action;

**3.7 Officers with average Reports** (i) an officer who is superseded or whose promotion is deferred comes to know about it automatically when his juniors are promoted to higher scale posts. He need not, therefore, be informed of average reports, unless the Countersigning Officer decides otherwise. The cases of officers whose promotion is deferred may be reconsidered on the basis of their PERs for the next year.

- ii. It is clarified that if any or all entries in part III of the existing PER form of BPS-17/18 are initialed in the column headed C, i.e. Average, the assessment does not become adverse in nature

and is, therefore, not be treated and proceeded as an adverse report PERs with average entries in part III of the PER Form would continue to be treated in accordance with the instructions contained in Estt: Division O.M. No. 32/4/76-A, IV, dated 7<sup>th</sup> July, 1976<sup>1</sup>.

**3.8 Advisory remarks:** Advisory remarks are not to be treated as adverse for the purpose of promotion unless it has been established that the officer concerned has not paid heed to the piece of advice given to him and has failed to show any improvement. Advisory remarks communicated, cannot be represented.

**3.9 Evaluation Reports** which are not in accordance with instructions should be returned by the higher authority to Reporting Officer, for revision in compliance with these instructions.

**4.1 Adverse Remarks:** When a report is built on the individual opinion of the Reporting and Countersigning Officers, it is only the opinion as accepted by the latter which should be communicated.

- (i) All adverse remarks whether remediable or irreparable should be communicated in writing to the officer reported upon and copy of the communication placed.
- (ii) Countersigning Officer should underline in red ink, remarks which, in his opinion, are adverse and should be communicated to the officer concerned.
- (iii) Remarks in cases where the Head of a Department/ countersigning or other higher officer suspends judgment, should not be communicated.
- (iv) (a) When an adverse remark is made in the Evaluation Report of any officer only a copy of the adverse entries should be furnished to him at the earliest opportunity, and in any case within one month from the date the report is countersigned, with a D. O letter, a copy of which should be signed and returned by him in acknowledgement of the D. O letter. A serious view should be taken if any failure on the part of the official concerned to furnish adverse remarks of the officer reported upon, within the stipulated period. Nevertheless, the adverse remarks should be communicated to the officer concerned even at the belated stage.  
(b) The officers making representation against adverse remarks recorded in their Evaluation Reports should not make any personal remark or remarks against the integrity of the Reporting Officer. Violation of this rule will be considered misconduct and will also render the representation liable to be summarily rejected.

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<sup>1</sup> The content of letter is mentioned in paragraph 3.7(i).

- (v) Any remarks to the effect that the officer reported upon has or has not taken steps to remedy the defects pointed out to him in previous years, should also be communicated.
- (vi) The adverse remarks should be communicated by Head of Department/Office in the case of Grade-17 and above officers and by the senior officer-in-charge of the establishment matters in case of other officers (custodian of C.R. Dossiers).
- (vii) An Evaluation Report containing adverse remarks should not be taken into consideration until they have been communicated in writing to the officer concerned and decision representation, if any.

**4.2 Instructions regarding adverse remarks:** - (i) The presumption that if any adverse entry is not underlined in red ink, it is not to be communicated, is not quite in order. Marking in columns "C" below average " and "D" "Poor"(in old Format) and "D" Below Average in New format of BS-17/18 Form do create an unfavorable impression on the members of the Selection Committee/Board while scrutinizing the service record of an officer. Unless an officer is informed about such entries, he will remain in the dark without making any effort for improvement and yet to suffer for the adverse entries.

(ii) Entries which may tend to create an unfavorable impression about an officer should be communicated even if he Reporting Officers or Countersigning Officers do not underline them in red ink.

(iii) Under the existing instructions, remarks once recorded in evaluation reports cannot be altered. If a Reporting/Countersigning Officer changes his views about the officer reported upon, the changed views can be incorporated only in the next year's report.

**4.3 Unlikely to progress further/unfit for further promotion:** - (i) A question has been raised whether or not the remarks "**Unlikely to progress further/unfit for further promotion, has reached his ceiling**", in an evaluation report are adverse and should be communicated. The point has been given due consideration and it has been decided that the remarks should be considered as adverse and should be communicated to the officer reported upon.

- (i) The question whether the remarks "Not Yet fit for promotion, but likely to become fit in course of time" in Part-III of the PER (in old format) and Part-IV(in new format of BS- 17 /18) under caption "Fitness for promotion" are to be treated as adverse in the case of an officer who fulfils he condition of length of service for promotion to the next higher grade; has been considered. It has been decided that the remarks should be considered as adverse in the case of an officer who fulfils the condition of length of service for promotion to the next



higher grade and should and should be communicated to him.

- (ii) It has been decided that if an officer is adjudged **unfit for continued retention in service** such an entry should be treated as adverse and should be communicated to the officer concerned.

**4.4 Un-finalized Departmental Proceedings:** - In the case of an officer against whom departmental proceedings are in progress, no mention whatsoever should be made about it in his performance Evaluation Report. Only when such proceedings have been finalized, and the punishment, if any, has been awarded/exonerated should be mentioned in his Evaluation Report. In such a case complete copy of the final order may be placed, as is usually done, on his Character Roll.

**4.5.** According to the instructions (vide Para 4.4) no mention should be made in the Evaluation Report of a Government Servant, of the departmental proceedings which may be in progress against him, unless such proceedings have been finalized, and the punishment, if any, has been awarded. There is no bar to a Government servant being considered for promotion during the pendency of departmental proceedings against him. However, in such case, a copy each of the charge sheet and the statement of allegations should be placed before the Provincial Selection Board or the Departmental Promotion Committee, as the case may be vide Establishment Division's O.M No. 2/20/67-D.I., dated the 13<sup>th</sup> November, 1967 (printed at S. No. 118 of Chapter V of the Establishment Manual, Volume-I, Reprint, 1968 and page 615 of, ESTACODE).

**4.6** According to the instructions contained in the Establishment Division's letter No. 9(1)/58-SE.III, dated the 8<sup>th</sup> May, 1958 (Para 4.4) no mention whatsoever can be made about a departmental inquiry pending against an officer in the Evaluation Report. However, there should be no harm in making as mention about a criminal case pending against an officer in his C.R.

**4.8** It has been observed that wherever any adverse remarks are communicated to any officer, no mention is made in the next year's report whether the officer concerned has or has not taken steps to remedy defects. This defeats the very purpose for which the system of communicating adverse remarks had been introduced.

**4.9** It is the responsibility of the departmental representative who attend the meetings of the Departmental Promotion Committee/ Provincial Selection Board to apprise the Committee/ Board whether or not any departmental proceedings are pending against the Government Servants whose cases are being considered by the Committee/ Board. A serious view should be taken if the departmental representatives do not give this information to the Committee/ Board and if later it comes to notice that a Government servant

was promoted notwithstanding the fact that disciplinary proceedings were pending against him.

#### **5. Deputationists : -**

The question whether the borrowing Government/ Department should communicate the adverse remarks recorded in the PER of the civil servant who is on deputation, and who should dispose of his representation for expunction of such remarks has been considered in the Establishment Division In consultation with the Provincial Governments. It has been decided that the borrowing Government/ Department should communicate the adverse remarks to the civil servant concerned and take further action thereon in accordance with the existing instructions on the subject. The borrowing Government/Department should, however, keep the lending Government/Department informed of the adverse remarks communicated to the civil servant concerned during the period of his deputation, and of the decision of the competent authority to expunge such remarks, by furnishing a copy each of such communications/orders to the lending Government/Department. A copy of such communication may also be furnished to the Establishment Division in respect of officers of the Federal Government in Grade-17 and above.

#### **5.1 Punishment Orders: -**

A question was raised whether and how any facts regarding punishments in departmental enquiries should be recorded in the Character Rolls of officers.

- a. The answer is that, in such cases, only a copy of the order awarding punishment should be filed in the Character Roll of the officer concerned. In case an appeal is preferred, a note may be recorded on the copy of the punishment order filed in the Character Roll, stating the decision taken on the appeal, and reference to the relevant records.
- b. On initiation of disciplinary proceedings against an officer, a copy of original order/showcause notice should be placed on his CR Dossier.
  - ii. If an officer is exonerated or some punishment is awarded, a copy of the final order should be placed on the Dossier as per instruction mentioned at Para 5.1 (a).
- c. It is clarified that the instructions mentioned at Para 5.1 (b) (i) and (ii) will also be applicable to non-gazetted staff.

#### **5.2 Timely Communication, of Adverse Remarks:-**

The question of non-communication to subordinate officers of such unfavorable remarks as may be made in their PERs in regard to them by their superiors is a matter of great importance both in the interest of the efficiency of administration and to the officers themselves. It does not provide an

opportunity to the officer reported upon for improving his efficiency or asking for the expunction, if these are *malafide*. Under the existing instructions, the Countersigning Officer is required to underline in red ink, remarks which, in his opinion are adverse and should be communicated to the officer concerned. All adverse remarks whether remediable or irreparable are required to be communicated in writing to the officer reported upon. The fact of communication must be recorded on the evaluation reports and a copy of the communication is to be placed in the official's dossier.

In order to retain and save the Evaluation Report System as a useful, open and dynamic system, rather than a hidden whip for harming the subordinates, it may please be ensured that:

1. The instructions contained in Para 5.2 of the "Instructions About Evaluation Reports" are complied with by all the officers working the Administrative Departments, Attached Departments and subordinate offices with immediate effect in letter and spirit. Unless there are justifiable or technical reasons to the contrary, the adverse remarks must be communicated without fail to persons concerned well before the end of June each year.
2. Disciplinary action is invariably initiated against the defaulters in future under the NWFP Government Servants (Efficiency and Discipline) Rules, 1973.
3. Steps are taken to ensure that the Dossiers of all the officers and staff working in your Administrative Departments or Attached Departments and subordinate offices under your administrative control are thoroughly checked up to ensure that they contain no uncommunicated adverse remarks otherwise steps be taken to communicate the same to all concerned expeditiously.
4. No request for expunction of adverse remarks not communicated within prescribed period is either entertained or referred to Establishment Department in future till such time responsibility for the same has been fixed and disciplinary action against the defaulter has been initiated/ taken.
5. A certificate is furnished to this Department not later than 30th April, 1988, that all the adverse remarks in the PERs of the civil servants working in your Department have been communicated to all concerned and no such case is pending.

**5.3** Experience has, however, shown that some of the Departments do not care to communicate the adverse reports to the concerned civil servants within the period prescribed under Para 5.2 of the "Instructions About

Evaluation Reports" *i.e.* by the end of June. After expiry of years, when the case of promotion/move-over etc. of a civil servant comes up, the Department instead of ignoring these remarks not only illegally expunge them in one stroke but also fail to comply with the other part of the aforesaid instructions *i.e.* initiating disciplinary action against the defaulting authorities. This defeats the very purpose for which the Performance Evaluation Reports are written. Moreover, civil servants who otherwise would have been superseded, get promotion to higher posts/cadres.

**5.4** The Supreme Court of Pakistan has, in a case Muhammad Farooq Chauhan versus the Province of Punjab (reported as PLD 1987 Supreme Court 271) held that adverse remarks recorded in Performance Evaluation Reports if communicated out of time shall not be ignored in the case of promotion. These would be ignored only if they were not communicated whether in time or out of time.

*In future following action may be taken:-*

- a. Direct all concerned under your administrative control to go through the CR Dossiers of all the officers/ officials and ensure that they contain no adverse entries which have not been communicated so far;
- b. Take steps that un-communicated adverse entries, if any, are communicated to all concerned without any further loss of time.
- c. Ensure that un-communicated adverse entries are not expunged at the belated stage, and
- d. In case, any adverse entries relating to previous periods come to notice, disciplinary action should invariably be taken against those responsible for non-communication of adverse entries.

**5.5** When a report consists of opinions of different departmental superiors in gradation, it is only the opinion as accepted by the highest Reporting Officer which need be considered from the point of view of communication.

**5.6** If the highest officer does not comment on any remarks of lower authority, it will be presumed that he has accepted it.

**5.7** The adverse remarks should be communicated in a personal letter. It may also bring out Good points, if any.

**5.8** The adverse remarks shall be communicated in writing; a duplicate copy with the acknowledgement of the officer concerned be kept on his record. The identity of the Reporting Officer should not be disclosed to the officer against whom an adverse report has been recorded.

**5.9** If a person's integrity is adjudged as '**average**', it shall not be construed to be an adverse remarks and shall not be communicated.

**6.0** In case of **retired Government servants** communication of adverse remarks is not necessary if the pension has been sanctioned. In case, however

the pension has not been sanctioned and the remarks are of serious nature which pertain to integrity and are likely to result in reduction in pension then they should be communicated within the prescribed time-limit and not otherwise.

**6.1 Action in case of recording adverse remarks by same Reporting Officer for two successive years:-**

In order to guard against personal likes and dislikes, an official receiving adverse remarks for two successive years from the same Reporting Officer should be placed under another Reporting Officer.

**6.2 Representation for Expunction of Adverse Remarks:**

- i. A person who is communicated adverse remarks can apply for the expunction of such remarks. But this should be done not later than one month from the date of receipt of the communication. The representation must be made in temperate and dignified language and no allegations of personal and malicious nature should be made. Indiscreet and irresponsible allegations against Reporting Officers will result in disciplinary action.
- ii. The officers making **representation** against adverse remarks recorded in their Evaluation Reports should not make any personal remark or remarks against the integrity of the Reporting Officer. Violation of this rule will be considered a misconduct and will also render the representation liable to be summarily rejected.
- iii. Comments of the Reporting/Countersigning Officers should be obtained only after a representation has been made by the officer adversely reported upon. These comments are means for the senior officers competent to take final decision on such representations. They are, in no case, to be divulged to the individual concerned before or after he has made a representation to avoid generating avoidable controversy between such officer/official and the Reporting Officer.
- iv. According to the existing instructions, there is scope for only one representation against adverse remarks, which should be submitted, if desired, by the officer concerned, within (30 days), of the receipt of those remarks.

**6.5 Review by the Successor Authority:-**

Cases have come to the notice of Government where the adverse remarks in the performance Evaluation Reports of Officers have been expunged after the lapse of many years. In some cases, the representations of the Officers for expunction of remarks had been rejected by the authorities who had the occasion to see the performance of the officer and were, therefore, in an ideal

position to determine whether or not the adverse remarks were justified. In spite of this, the successor authorities have reviewed the early decisions and expunged the remarks spreading over a number of years in one sweep, thus giving rise to claims of proforma promotion. Government are of the view that this is not a judicious exercise of the discretion vested in the expunging authorities and have decided that the officers adversely reported upon will continue to have only one right of making a representation and absolute finality would be attached to the decision taken thereon, whether in favor of the officer or against. The decision on representation for expunction of adverse remarks should be taken expeditiously, preferably within six months of the making of representation. The orders of the expunging authority will not be subject to review by the successor authorities.

#### **6.6 Expunction of Adverse Remarks: -**

References are frequently received from various departments enquiring about the competent authority for expunction of adverse remarks in the PERs of various categories of Government Servants.

- i. In future all **representation** about expunction of adverse remarks will be made, through proper channel, to the authority next above the Countersigning Officer. In the cases, however, where the Chief Minister is the Countersigning Authority, the Civil Servant concerned may submit a review petition.
- ii. If the final authority dealing with a report, considers it to be biased or unjustified or inconsistent with the facts and decides that the entries should be expunged, then the adverse entries should be scored through, but not in such a way as to make them illegible. A marginal note should be added showing the file number and date of the orders by which the entry has been expunged. However, such a representation will not form part of Character Roll.
- iii. Under no circumstances should any entry in Evaluation Report be mutilated or papers physically removed from the file of Evaluation Reports.

#### **6.7 Safe Custody<sup>1</sup>: -**

Except to the extent of communicating the remarks in accordance with the above instructions the contents of the reports should not be divulged to the Government Servant concerned, in no case should an officer have

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<sup>1</sup> This instruction is subject to Establishment Department (Secret Section) Govt. of KPK Letter No.SOS (ED) CR./2(1)Inst-2008 dated Peshawar 06th November, 2008

access to his own reports. In order to guard against the evaluation reports being tempered with, the reports when filed in the Character Roll will be page numbered in ink and entered in the index on first page after the face sheet prescribed in the form in appendix-J.

- i. No Reporting Officer / Countersigning Officer will hand over the performance Evaluation Report to the Officer/ Official concerned by hand except its proper delivery in dealing section under sealed cover with a proper letter.
- ii. The borrowing authorities should under no circumstances change the order in which the various Evaluation Reports have been filed and indexed on the first page or carry out any other alteration in the Character Roll. However, such documents should be returned immediately to the lending authority.
- iii. The same principle applies to borrowing authorities to which Government Officers are sent on deputation.
- iv. It has further been observed that Reporting Officers as well as Countersigning Officers in some cases initiated revised reports on an officer with improved grading on the request of individual officer to substitute the Performance Evaluation Report written by them earlier. It clearly shows that some officers have access to their Evaluation Reports in violation of the existing instructions regarding security of classified documents/ information in Government Departments issued by the Cabinet Division, Islamabad.
- v. The Provincial Government has taken a serious note of it and it has been decided that appropriate action should be taken against these officers of the Federal as well as Provincial Government found guilty of violation of these instructions.
- vi. Competent Authority has shown grave concern over the maintenance of secrecy in respect of PERs/ CR Dossiers in respect of PSB meeting cases. The copy of synopsis of PERs have been found in excess of irrelevant persons which is against the instructions on the subject.

#### **6.8 Maintenance of Character Roll:-**

The Character Rolls shall be maintained in duplicate except where specified otherwise. The Administrative Department/ Head of the Attached Department or the Head of the office concerned shall take a decision about each class or category of posts where the original and the duplicate copy shall be maintained. The original shall be maintained at a level where it is not required to be moved whereas, the duplicate copy may move, to the appropriate authority, with each transfer of a Government Servant.

6.8 (a) Copies of the Character Roll of the Officers mentioned below shall be maintained by the authorities noted against each:-

S.No	Name of Service	No.of copies.	Maintaining Authority Central
1.	APUG Officers.	2	i) Central Government. ii) Establishment & Admn. Department.
2.	PSP and Provincial Police officers officiating in Senior PSP Scale(Except-IGP).	2	i) Central Government. ii) C.S (Estt: Deptt) iii) I.G.P Office
3.	Listed Post holders, PCS(EG) other than those serving under Board of Revenue.	3	C.S (Establishment & Admin. Deptt:)
4.	Head of Administrative Department.	2	C.S(Establishment & Admn. Deptt:
5.	All Secretariat Officers/Officials.	2	C.S Establishment & Admn. Deptt)
6.	Other than Secretariat Officers.	2	Administrative Department.

### 6.9 Honour/Award Entry in the PERs:-

In case an officer has received Honour/Award suitable entry should be made in the Character Roll and Copy of citation placed in it. The order rewarding officers/officials in connection with their suggestions found useful and worth adopting, may be placed in the personal file and not in the Character Roll of the Government Servant concerned. The reporting Officer should keep the fact in view and mention the same while recording Performance Evaluation Report. It is the duty of the branch/ section concerned to bring to the notice of the Reporting Officer, for the calendar year, that the person on whose work and conduct a report is to be written, has been awarded by Government for a found useful and worth adopting.

**7.0** No chits or certificates should be granted to the subordinates by any officer and the assessment of the work of Government Servant should be confined to the Performance Evaluation Report. Such chits/certificates, if still issued will be ignored by Government for any purpose.

**7.1** The letters or notes of appreciation recorded by the Minister or any other higher officer may be filed in the character roll of the officer if these relate to the work done by the officer concerned outside the normal sphere of duties. But if these pertain to the work connected with the normal duties; they must not be placed in the character roll but commented upon in the Performance Evaluation Report.

**7.2** The **photographs** to be pasted on the folders attached to the revised forms for evaluation reports on gazetted officers should be furnished by the concerned officers, at their expenses.

**7.3** The Reporting Officers may, if they like, to maintain a katcha register for keeping rough notes relating to the work of the subordinates including cases of outstanding good or poor work. This will avoid writing of reports based



on vague impression and will make the reports more realistic and character and will be easier to assess the performance of the subordinate from a such memoranda and thus present a true picture in the report. The proforma of this register is at Appendix 'K'. This register will not be a permanent record but only be destroyed as soon it has out lived its utility.

**7.4** The reports of officers detailed for training at various institutions, e.g. Administrative Staff College, N.I.P.A., Village Aid Academies will be placed on the Character Rolls of the officers. Similarly, the assessment reports on the officers attending training courses shall also form part of their Character Rolls.

**7.5** A note may be recorded in respect of the periods for which reports do not exist in the Character Rolls, due to long leave or other causes which should be stated in proper sequence of the filling of the reports.

**7.6 Preservation of Character Rolls:-**

The Character Rolls of retired Government Servant should be maintained for ten years after retirement or up to the age of sixty five years whichever is later. In the case of persons relieved from Government Service otherwise than by retirement, the Character Rolls shall be retained at least for ten years, after the date of release from Government service. On the expiry of the prescribed period the Character Roll will be destroyed by burning.

**7.7 Supply of Copies/Extracts from C. R :-**

Supply of copies or extracts from Character Rolls is prohibited. It is, however, permissible for the Head of the Attached Department, or Government whichever may be the final authority, having custody of the record to give the officers who have retired, a letter in which their final record is summed up.

**7.8 Writing/Countersigning of PERs by Retired/Expired Officers: -** The question, whether a retired officer should write/countersign Performance Evaluation Reports on officers and staff; who worked under him prior to his retirement has been under consideration in the Establishment Division. It has been decided that as in the case of Government Officers, who whether voluntary or on attaining the age of superannuation, should be asked to write/countersign reports, on the officers and staff who have worked under them for more than three months, before their retirement. If an officer proceeds on retirement without writing/countersigning the reports and cannot be contacted or fails to oblige despite repeated requests, the following procedure should be adopted:

- i. The officer who would have countersigned, had the report been initiated by the retired officer, should initiate the report, provided that he has seen the work of the officer reported upon, for a minimum period of three months. The next higher officer, if any, should countersign it.

- ii. If the report has already been initiated but the Countersigning Officer has retired/ expired, the next higher officer, if any, should countersign, provided that he has personal knowledge of the work of the officer concerned.
- iii. If both the initiating and the Countersigning Officers have retired/expired, the officer next higher than both of them countersign, if any, should countersign it. In such cases both the Initiating and Countersigning Officers must have personal knowledge of the work of the officer reported upon.
- iv. In case the report cannot be initiated at all, a suitable note to this effect be recorded in the C.R. dossier, if the report has been initiated but has not so far been countersigned, the reasons, therefore, be recorded in respective part of the PERs.

**8.0 Filling up of PERs:-** The learned Peshawar High Court in writ petition filed by a Government servant has observed that in the Evaluation Report for the year 1989, the petitioner was found placed in column "B" (Average) in Part-II throughout in all six places. However, in overall grading in the said part, in part-III he was placed at 10 places in column 'A' (Good) and six places in column 'B' (Average) and his overall grading in Part-III has been recorded in column 'A' (Good) and in Part-IV he has again been placed throughout at all eight places in column 'B' (Average). The Reporting Officer has still placed him in overall grading "Good" although he was to be placed in overall grading "Average". It is unfortunate that Countersigning authority has also not noticed this anomaly and has simply put his signature to it as agreeing with the Reporting Officer.

- i. The Peshawar High Court while dismissing the Writ petition in limine, have inter alia observed that necessary directions be issued to the Reporting Officer and Countersigning Officers to first read the instructions incorporated in the Performance Evaluation Report forms and then to fill up the Performance Evaluation Reports in accordance with the instructions.
- ii. The Provincial Selection Board, while examining Performance Evaluation Reports in promotion cases in its meetings held from time to time have also made the following observations: -
  - a. While recording the overall grading, the Reporting/Countersigning Officer concerned should confine themselves to the Grading specified in the PERS forms, i.e. (Very Good, Good, Average, Below Average).
  - b. When an officer reported upon is under enquiry, the report

must indicate: -

- (i) The specific charges levelled against the Officer reported upon.
  - (ii) The result of enquiry, i.e. whether he was exonerated or a penalty (to be specified) was imposed on him, may invariably be mentioned in the PERS.
- c. Adverse remarks should always be underlined with Red ink by the Countersigning Officer and also reflected in the synopsis under the relevant column.
- d. In most of the cases, the words "Adverse Remarks expunged" are written. The Department concerned must indicate the nature and contents of the expunged adverse remarks so that it could be known whether those pertained to the integrity or otherwise of the officer concerned. It may also be insured that adverse remarks are not expunged at a belated stage i.e. after expiry of the prescribed period.

**8.2 Annual Medical Examination of Officers:** - Government of Pakistan has decided that every officer in the employment of the Federal/Provincial Government should be medically examined every year and the report of such examination be recorded in the Performance evaluation reports/ service record of the officer.

The Report will be disclosed to the officer. If he contests the medical category assigned to him by the Medical Officer conducting the medical examination he may be placed before a Medical Board.

The above decision has been taken in the interest of the officers themselves so that their physical defects are discovered at an early stage and an easy treatment is assured. An officer who is completely incapacitated and placed in "C" category would still be given such treatment as may be possible. There will be no categorization of jobs and the Establishment Division/Service Department concerned will take the medical report into account while considering particular appointment.

The intention of the orders issued in the Ministry of Health O.M. No. F.9.18/60-M, dated the 10 January, 1961 is to ensure that officers in Government service are fit and as such all Grade-17 and above officers including those reemployed after retirement, should be medically examined annually.

**8.3 Maintenance of Medical Rolls with the CR Dossier:-** According to the instructions contained in the Health Division O.M. No. F.9/18/60-M, dated 10<sup>th</sup> January, 1961 (Para-4 12) Annual Medical Reports in respect of

all Grade-17 and above officers are required to be placed in the C.R. Dossier of the officers concerned. Experience has, however, shown that mixing of medical reports with Evaluation Reports in the C.R. Dossiers for purposes of career planning, promotion, etc. of the Officer. It has, therefore, been decided that medical reports should henceforth be placed in a separate folder to be called "Medical Roll" attached with the C.R Dossier of the Officer.

**8.4 Character Roll of Retired Officer:-** It has been decided as a general principle that the Character Rolls may not be given to the retired officers.

**8.5 Character Rolls of Government Servants no longer in service:-** It has been decided that in case of death or resignation of officers, the Character Roll may be preserved for five years after their death and resignation and in other cases for ten year after their retirement, removal discharge or dismissal, etc. or until they attain the age of 65 years, whichever is earlier.

**8. 6. Affixing of photographs on Character Ro/1:-**

O. M. No. 6/1/70- A.II, dated 16.03.1970 (Para 5.27).

D.O. No. 6/1/70-A.II, dated 26.2.1970 (Para 5.28).

In spite of the instructions noted in the above quoted letter, in a quite large number of cases photographs of officers are not affixed to their C.R. Dossiers. In some cases the photographs have become too old, although according to the instructions, photographs should be replaced after every ten years. It may kindly be ensured that the latest photographs of all officers are affixed immediately to their Character Roll Dossiers. Copies of the latest photographs may also please be supplied to the Provincial Government. Certain Purdah observing officers have objected to supply their photographs for affixing them on their C.R. Dossier. The matter has been considered in the Establishment Division. It has been decided that such officers will have the option to supply or not to supply their photographs for the purpose. In respect of officers who do not like to supply their photographs, a certificate that they observe purdah will have to be given by the Head of the Institution where they serve<sup>1</sup>.

APPENDIX 'K'

[vide para 7.4]

PROFORMA OF KATCHA REGISTER TO BE MAINTAINED BY  
OFFICER TO BE USED FOR WRITING PER.

Page No. \_\_\_\_\_

<sup>1</sup> For Judicial Officers, please follow the instructions contained in PHC letter No.4175-99/Admn dated 04<sup>th</sup> March, 2017.

Name of Officer \_\_\_\_\_

**REMARKS**

Date \_\_\_\_\_

Signature \_\_\_\_\_

Name (in block letters) \_\_\_\_\_

Designation \_\_\_\_\_

C.No. 2(3-15)

**REPRESENTATION AGAINST ADVERSE REMARKS IN PERFORMANCE EVALUATION REPORT OF JUDICIAL OFFICERS TO BE DECIDED BY THE HIGH COURT**

Please refer to your D.O. letter No.39-72/PS dated the 16<sup>th</sup> March, 1972 regarding representation made by District/Additional District and Sessions Judges for expunction of adverse remarks in their Character Rolls.

On reconsideration, the Governor, NWFP desires that the representation by the affected person may be decided by the High Court itself.

The representation enclosed with your letter quoted above alongwith the Character Rolls of the officers concerned are returned herewith.

(Government of NWFP D.O.No.PS/CS-NWFP-72/236 dated Peshawar the March 17<sup>th</sup>, 1972)..... Addressed to High Court.

C.No. 3(3-15)

**DECLASSIFICATION OF PERFORMANCE EVALUATION REPORT OF CIVIL SERVANTS – RE-CATEGORIZATION AS ‘RESTRICTED’ INSTEAD OF ‘CONFIDENTIAL’**

I am directed to refer to the above noted subject and to state that with the conversion of Annual Confidential Reports (ACRs) into Performance Evaluation Report (PERs) it has been under consideration that in order to improve the Performance of the civil servants being reported upon, it is imperative that their appraisal is shared with them. It was noticeable that while adverse remarks were communicated officially, the civil servant never got to know of the good work done by him/her. Since PERs include various assessment variables, it is necessary that assessments against each are known to the civil servants so that they could further improve.

Keeping in view the above justifications, the Govt. of NWFP has decided to re-categorize the 'Confidential' category of the Performance Evaluation Report to 'Restricted' and also substitute para-5.3 of the booklet 'A Guide to Performance Evaluation (2004 Edition)' as under: -

**5.3 Performance Evaluation Report of the officer reported upon shall be shown to him/her on his/her request.**

Consequent, PERs forms to be issued in December 2008/ Jan 2009 will have the word 'Restricted' on top-right corner of page-I.

The procedure for showing PERs to officer reported upon would be that on receiving a written request, the administrative Secretary of the Department concerned, or officer authorized by him/her shall approve such request and the custodian of PERs shall show them to the officer reported upon in the office of the Secretary/Authorized Officer. In no circumstances would a copy of the PERs be given to the officer reported upon.

Kindly bring the above into the notice of all officers and attached Departments under your control for information and compliance.

(Establishment Department (Secret Section) Govt. of KPK Letter No.SOS (ED) CR./2(1)Inst-2008 dated Peshawar 06<sup>th</sup> November, 2008)

C.No. 4(3-15)

**PHOTOGRAPHS**

I am directed to say that all the Judicial Officers and Ministerial Staff of grade-16 and above, while submitting PER forms to this Court, shall annex two latest passport size photographs with the same in future.

I am, therefore, to request for following the directive accordingly, please.

(PHC letter No. 3021-60/Admn dated 05<sup>th</sup> March, 2012)

C.No. 5(3-15)

**PERFORMANCE EVALUATION REPORT**

I am directed to refer to the cited subject and to say that Hon'ble the Chief Justice, while countersigning the PERs, has observed that some of the

reporting officers had graded the officers/officials reported upon as very good without mentioning reasons and justifications.

I am, therefore, to request that whenever a reporting officer is grading the officer/official reported upon as very good, the same shall be based on sound reasons.

(PHC letter No. 1907-30/Admn dated 22<sup>nd</sup> February, 2013)

C.No. 6(3-15)

### **DIRECTIVES OF HON'BLE CHIEF JUSTICE**

I am directed to say that in future counselling by the District & Sessions Judges and other Senior Judicial Officers shall only be in writing with a copy to this Court, please.

(PHC letter No. 12447-77/Admn dated 27<sup>th</sup> October, 2015)

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**CHAPTER-IV  
ADMINISTRATION**

**SECTION-I  
DRESS CODE**

C.No. 1(4-1)

**DRESS CODE FOR JUDICIAL OFFICERS  
ORDER**

Dated Peshawar the 28<sup>th</sup> April, 2004

**No. U-86-II** The Competent Authority has been pleased to prescribe the following dress code for all the Judicial Officers of the District Judiciary as well as members of the bar, with immediate effect and until further orders;

<b>Summer(15<sup>th</sup> April to 14<sup>th</sup> October)</b>	
<b>Gents:</b>	White Shalwar Qameez with black coat/waist coat (Sherwani Collars) and black shoes. OR Black suit/black coat with gray pants, white shirt, black neck tie with black shoes.
<b>Ladies:</b>	White Shalwar Qameez with black scarf (Dupatta) and black shoes(black coat-optional).
<b>Winter(15<sup>th</sup> October to 14<sup>th</sup> April)</b>	
<b>Gents:</b>	White Shalwar Qameez with black coat and black Shoes. OR black Suit / Black coat with gray pants, white shirt, black neck tie with black shoes.
<b>Ladies:</b>	White Shalwar Qameez with black coat, black scarf (Dupatta) and black shoes.

This is issued in supersession of all previous orders on the subject.



C.No. 2(4-1)

### **OFFICIAL DRESS FOR FEMALE JUDICIAL OFFICERS**

This is with reference to District & Sessions Judge, Peshawar vide letter No. 1086 dated 09.02.2018 on the subject.

After through deliberation & feedback from female Judicial Officers, the Competent Authority has been pleased to allow black gown (optional) besides white shalwar Qameez, black Coat, black scarf and black shoes as official dress for female Judicial Officers.

(PHC Letter No. 2869-95/Admn Dated 03<sup>rd</sup> March, 2018)

C.No. 3(4-1)

### **DRESS CODE FOR EMPLOYEES OF THE PESHAWAR HIGH COURT, PESHAWAR, ITS BENCHES AND OF DISTRICT JUDICIARY**

#### **PESHAWAR HIGH COURT, PESHAWAR NOTIFICATION**

Dated Peshawar the 10<sup>th</sup> September, 2018

**No.U-86-III/233-J:** Hon'ble the Chief Justice has been pleased to prescribe the following dress code for the employees (BPS-06 to 20) of Peshawar High Court, Peshawar, its benches and all the courts staff of District Judiciary, Ex-Cadre and Special Courts/Tribunals in the Khyber Pakhtunkhwa, with immediate effect:-

<b>SUMMER (15<sup>TH</sup> APRIL TO 14<sup>TH</sup> OCTOBER)</b>	
Gents:	White Shalwar Qameez with Grey Waist Coat and black shoes
Ladies	White Shalwar Qameez with Grey Scarf (Dupatta) and black shoes.
<b>WINTER (15<sup>TH</sup> OCTOBER TO 14<sup>TH</sup> APRIL)</b>	
Gents:	White Shalwar Qameez with Grey Coat/Sweater and black shoes
Ladies	White Shalwar Qameez with Grey Sweater, Grey Scarf (Dupatta) and black shoes.

**Note:**

1. All concerned shall also put a badge containing his name and designation
2. White Shalwar Qameez and Green Waist Coat shall be standard uniform for Class-IV employees
3. The drivers shall wear the uniform, already prescribed

C.No. 4(4-1)

**REVISED DRESS CODE FOR FEMALE EMPLOYEES OF  
PESHAWAR HIGH COURT, PESHAWAR, ITS BENCHES AND  
THAT OF THE DISTRICT JUDICIARY**

**NOTIFICATION**

Dated Peshawar the 01<sup>st</sup> October, 2018

**No.U-86-III/236-J:** In partial modification of this Court's Notification No. U86-III-233-J,, dated: 10.09.2018, Hon'ble the Chief Justice has been pleased to approve revised dress code for female employees of Peshawar High Court, Peshawar, its benches and that of the District Judiciary, Ex-Cadre and Special Courts/Tribunals in the Khyber Pakhtunkhwa, with immediate effect:-

<b>SUMMER (15<sup>TH</sup> APRIL TO 14<sup>TH</sup> OCTOBER)</b>	
Ladies	White Shalwar Qameez with white Dupatta, Grey Coat and black Shoes or Grey Abaya with white scarf and black shoes.
<b>WINTER (15<sup>TH</sup> OCTOBER TO 14<sup>TH</sup> APRIL)</b>	
Ladies	White Shalwar Qameez with Grey Blazer, white Dupatta and black shoes or Grey Abaya with white scarf and black shoes.

C.No. 5(4-1)

**NON-OBSERVANCE OF OFFICIAL DRESS CODE**

It has been observed with great concern that certain employees of Peshawar High Court, its Benches, and that of District Judiciary, Ex-Cadre and Special Courts/tribunals in the Khyber Pakhtunkhwa do not observe the official dress code notified vide this Court's Notification No. U-86-III/233 & 236-J dated 10-09-2018 and 01-10-2018.

The Competent Authority has, therefore, been pleased to direct that final warning may be issued to those officers/officials who do not observe official dress code. Failure to comply with may lead to punitive action

**SECTION-II  
BUSINESS HOURS**

C.No. 1(4-2)

**WORKING HOURS OF PESHAWAR HIGH COURT (PRINCIPLE  
SEAT), BENCHES AND DISTRICT COURTS (SUMMER)**

**PESHAWAR HIGH COURT, PESHAWAR  
NOTIFICATION**

Dated Peshawar the 7<sup>th</sup> April, 2020.

**No. 26-J.** Hon'ble the Chief Justice has been pleased to order that the Peshawar High Court, Peshawar, its Benches as well as subordinate Courts in the Khyber Pakhtunkhwa, shall observe the following working hours during the summer season:-

W.E.F 16<sup>TH</sup> APRIL,2020 TO 15<sup>TH</sup> OCTOBER, 2020 BOTH DAYS  
INCLUSIVE)

Monday to Thursday and Saturday.

8:00 A.M to 2:30 P.M (With 30 minutes break from 1:00 P.M to 1:30 P.M  
for Zohar Prayers).

**FRIDAY:** 8:00 A.M to 12:00 Noon

**SUNDAY:** Closed.

(PHC Endst: No53469-570/Admn: Dated Peshawar 07<sup>th</sup> April, 2020)

C.No. 2(4-2)

**WORKING HOURS OF PESHAWAR HIGH COURT (PRINCIPLE  
SEAT), BENCHES AND DISTRICT COURTS (WINTER)**

**PESHAWAR HIGH COURT, PESHAWAR  
NOTIFICATION**

Dated Pesh the 13<sup>th</sup> October, 2020

**No224-J.** Hon'ble the Chief Justice has been pleased to order that this Court, its Benches and all the subordinate Courts in the Khyber  
---720-----Judicial Estacode 2021-

Pakhtunkhwa, subordinate to this Court shall observe the following working hours during the winter season: -

Winter: (W.E.F 16<sup>TH</sup> OCTOBER, 2020 TO 15<sup>TH</sup> APRIL, 2021 BOTH DAYS INCLUSIVE)

Monday to Thursday and Saturday:

8:30 am. to 3: 00 P.M (with 30 minutes break from 1:00 P.M to 1:30 P.M for Zohar Prayers).

Friday. 8:30 A.M to 12:30 Noon

Sunday. Closed.

(PHC Endst: No. 17534-734/Admn: Dated Peshawar 14<sup>th</sup> October, 2020)

C.No. 3(4-2)

## **WORKING HOURS FOR THE SPECIAL COURTS/TRIBUNALS (FEDERAL & PROVINCIAL)**

### **PESHAWAR HIGH COURT, PESHAWAR NOTIFICATION**

*Dated Peshawar the 10<sup>th</sup> July, 2018*

**No.172-J:** Hon'ble the Chief Justice has been pleased to order that all the Judicial Officers working against ex-cadre posts in special Courts/Tribunals (Federal & Provincial) shall strictly observe the following office/Court timing.

**SUMMER: (w.e.f 16<sup>th</sup> April, 2018 to 15<sup>th</sup> October, 2018 both days inclusive).**

**Monday to Thursday & Saturday:**

08:00 to 02:30 pm (with 30 minutes break from 01:00 pm to 1:30 pm for Zohar Prayers)

**Friday:** 08:30 am to 12:00 noon.

**Sunday:** Closed.

**WINTER: (w.e.f 16<sup>th</sup> October-2018 to 15<sup>th</sup> April, 2019 both days inclusive).**

**Monday to Thursday & Saturday:**

08:30 am to 03:00 (with 30 minutes break from 01:00 pm to 01:30 pm for Zohar prayers)

**Friday:** 08:30 am to 12:30 pm.

**Sunday:** Closed.

**Note:**

- Saturday shall be the working day for all Courts in KPK.
- Non-Observance of the order shall amount to inefficiency and gross misconduct, liable to disciplinary action under the law.

(PHC Endst No: 9702-9816/Admn: Dated 11<sup>th</sup> July, 2018)

**SECTION-III****COURT MANAGEMENT**

C.No. 1(4-3)

**RECITATION OF THE HOLY QURAN AT THE COMMENCEMENT OF THE JUDICIAL WORK BEFORE THE HIGH COURT AND THE SUBORDINATE COURTS.**

A Special meeting under the Chairmanship of the Hon'ble the Chief Justice was convened on 03.04.1993 at 11:00 A.M, which was attended by the Hon'ble Judges of this Court. In the meeting, it was unanimously resolved that as the preamble of the Constitution and the Objective Resolution direct our lives to be conducted in conformity with the injunctions of Quran and Sunnah, therefore, it was decided that the court proceedings in the Province shall commence with recitation from Holy Quran in the morning and that the act of recitation from the Holy Quran shall be performed by a senior Muslim Advocate appearing in the case or by the readers of the respective Courts.

I have, therefore, been directed by the Hon'ble Chief Justice and Judges of this Court to emphasize that the proceedings in the High Court as well as in the subordinate Judicial Courts should commence with the recitation from the Holy Quran. The recitation should be performed by a Senior Muslim practicing lawyer appearing in the first case or by the Readers of the respective Courts.

It is, therefore, desired that all the Courts throughout the NWFP are to follow the suit.

(PHC letter No. 1963-2062 / Admn: Brh: Dated Pesh: the 3<sup>rd</sup> April, 1993)

C.No. 2(4-3)

**PREPARATION OF ANNUAL WORK PLAN**

I am directed to refer to the subject noted above and to say that in order to streamline the work procedure in a scientific manner and to enable the Judicial Officers to better manage their Court & Cases, it will be proper to plan Court work. This will also enable the Presiding Officers to manage their time so as to use it more efficaciously. With this aim in mind, the idea of Work Planning was also discussed in the recently held quarterly conference of District & Sessions Judges and it was decided that this Court

will communicate a model Annual Work Plan to all the Judicial Officers, who after preparing their individual work plans will submit it to their respective District & Sessions Judges. The District & Sessions Judges will in turn prepare a consolidated work plan and send it to this Court for approval. This Court has prepared a model Annual Work Plan separately for Civil, Criminal and Administrative Business. A model work plan has been filled with presumptive figures for convenience. While fixing a month for disposal of case, current stage of the case is to be taken into consideration.

To further improve the proforma, any suggestion will be appreciated.

(PHC letter No.AJP/HC/43-A-8-A/2003/KP-4 Dated Peshawar the 5<sup>th</sup>  
March, 2005)



Annual Work Plan for the Disposal of Civil Cases  
pending in the Court of \_\_\_\_\_

S No	Year of Institution	Total Number of Cases	Time Schedule for Disposal (March 2005 to December 2005)															
			March				April				May				June and so on			
			*W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4

Annual Work Plan for the Disposal of Criminal Cases  
 pending in the Court of \_\_\_\_\_

S No	Year of Institution	Total Number of Cases	Time Schedule for Disposal (March 2005 to December 2005)															
			March				April				May				June and so on			
			*W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4

Annual Work Plan for the Administrative Functions of the Court of \_\_\_\_\_

S No	Activity	Ministerial Officer responsible for the Activity	Time Schedule (March 2005 to December 2005)															
			March				April				May				June and so on			
			*W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4
1	Monthly Inspections																	
2	Quarterly Inspections																	
3	Periodical Inspection of Accounts																	
4	Periodical Statements																	
5	Budgetary Statements																	
6	Writing of PERs																	
7	Local training for Process Serving Establishment																	
8	Workshop for Presiding Officers																	
9	DSCs																	
10	DPCs																	
11	Circulation of Seniority List																	
12	Destruction of Record																	
13	Jail Visit																	

C.No. 3(4-3)

### **FEMALE JUDICIAL MAGISTRATE AS MOD**

I am to refer to the subject noted above and to say that the Hon'able Chief Justice has been pleased to direct that female Judicial Magistrates shall be exonerated from the duty of MOD, in future, except in cases of urgency, like non-availability of Judicial Magistrate at the station.

(PHC Letter No.9526-9549/Admn Dated 1<sup>st</sup> October, 2007)

C.No. 4(4-3)

### **CONTACT INFORMATION OF PARTIES**

I am directed to refer to the subject noted above and to say that under Order VII rule 1 of the Code of Civil Procedure, 1908 the plaintiff is required to give the particulars regarding name, description and place of residence of plaintiff as well as defendant. The description, in this era of Information Technology, encompass the following, which should, invariably be provided, to the extent possible, by the plaintiff, appellant, petitioner etc in all judicial proceedings, whether criminal or civil. The said details should also be provided in list of witnesses, at the time of filing of F.I.R, complaint etc.

- a. NIC number and copy of NIC.
- b. Present address of parties if different from permanent address.
- c. E-mail address.
- d. Cellular/Mobile phone number.
- e. Fax number.
- f. Telephone number

These descriptions of contacts must be updated by the parties or other concerned in case of any change. This directive may be circulated amongst all the judicial officers, police officers and other concerned in the district.

(PHC letter No.18627-80/Admn Dated Peshawar, 03<sup>rd</sup> November, 2010)

C.No. 5(4-3)

### **QUALITY OF ADMINISTRATION & COURT**

I am directed to refer to the subject noted above and to say that it has been noticed by this Court that the office management of many courts in the

province in not up to the mark and the important administrative steps like preparation of seniority list, maintenance of service books, PERs etc of staff be improved and compliance of different directions and rules be ensured in letter & spirit, please.

(PHC letter No. 4562-85/Admn Dated Peshawar, 09<sup>th</sup> April, 2011)

C.No. 6(4-3)

**DISPOSAL OF EXPLOSIVE MATERIAL TAKEN AS CASE PROPERTIES.**

Enclosed find herewith, copy of letter No. 604/Ccc/Invest: dated: 06.05.2011, on the subject, received from the Addl: Inspector General of Police, Investigation, Khyber Pakhtunkhwa, Peshawar, for information and compliance.

(PHC letter No. 6078-6112/Admn Dated Peshawar, 19<sup>th</sup> May, 2011)

**DISPOSAL OF EXPLOSIVE MATERIAL TAKEN AS CASE PROPERTIES.**

Seeking privilege to address your kind self on the above noted subject and state that large quantities of explosives and explosive material are being taken into possession by the Police in varied cases. There is no standard arrangement with the police to safely keep the material till exhibits before court of competent jurisdiction are made. Meanwhile, the custody of material poses serious threat of being exploded for various reasons. Several lethal and accidental blasts have occurred in the past resulting in severe damage to police buildings and personnel which could have been avoided by timely diffusion/destruction of explosive substances.

It is, therefore, requested that subordinate courts especially the Anti-Terrorism Courts may kindly be directed to grant prompt permission for destruction of explosive based case properties/material after allowing exhibit samples of manageable size and photography of the material. If granted, the Police Department will feel obliged for enabling it to quickly dispose of such lethal material, once they come to be part of case properties.

Please also kindly accept the assurances of highest consideration and gratitude for patronizing Police Department in its pursuit for upholding justice and rule of law.

(Letter No. 604/cc/Invest dated 06<sup>th</sup> May, 2011)

C.No. 7(4-3)

**CONTACT INFORMATION OF PARTIES**

I am directed to refer to this Court letter No. 18627-80/Admn dated 03.11.2010, Code No. 27(4-23), Page No. 544 in Judicial Estacode 2011 (copy enclosed) and to impress upon all the courts to follow the said instructions in letter and spirit. The instructions may be circulated amongst all the concerned under your control.

(PHC letter No. 14366-94/Admn: dated Pesh the 08.12.2011)

C.No. 8(4-3)

**DAILY SITUATION REPORT (DSR)**

I am directed to say that a Daily Situation report (DSR) particularly highlighting any important event within the districts be submitted invariable to this Court by Fax.

I am, therefore, to request for following the directive accordingly, please.

(PHC Letter No. 3062-85/Admn, Dated Peshawar the 05-03-2012)

C.No. 9(4-3)

**DAILY SITUATION REPORT (DSR)**

I am directed to invite your attention to this Court's letter No.3062-85/Admn dated: 05.03.2012, and to say that it has been noticed with great concern that instructions contained in the letter are not complied with by some of the District & Sessions Judges.

I am therefore directed to impress upon all the District & Sessions Judges that aforesaid instructions must be complied with, in letter and spirit, in future.

(PHC Letter No. 3643-86/Admn, Dated Peshawar the 17<sup>th</sup> March, 2012)

C.No. 10(4-3)

**DAILY SITUATION REPORT (DSR)**

I am directed to refer to this Court's letter No. 3062-85/Admn dated 05.03.2012, followed by Reminder No. 3643-86/Admn dated 17.03.2012, on the subject noted above and to say that Hon'ble the Chief Justice has taken serious notice of non-submission of Daily Situation Report

(DSR) by most of the District & Sessions Judges. In future, failure to submit in time report shall be considered inefficiency on the part of the defaulting officer.

I am further directed to say that the DSR may be faxed on daily basis on 091-9210493 to Principal Staff Officer of the Hon'ble Chief Justice for placing the same before his lordship.

(PHC Letter No. 5625-48/Admn, Dated 16<sup>th</sup> April, 2012)

C.No. 11(4-3)

### **PROHIBITION OF CARRYING WEAPON IN THE COURT PREMISES**

#### **ORDER**

Hon'ble the Chief Justice has been pleased to prohibit the carrying of any weapon including service rifle/pistol, even to the carried by police or law enforcement agencies, within the court premises throughout the Province of Khyber Pakhtunkhwa. Any violation of this order shall make liable the person for prosecution under the relevant law.

Provided, that the above order shall not apply to security staff/police guards or any other security agency attached to the High Court, its Benches, subordinate Courts, the personal guards of Hon'ble Judges and other senior Judicial Officers. This order shall remain in force till further order.

(Endst No. 10114-10164/Admn, Dated 31<sup>st</sup> July, 2012)

C.No. 12(4-3)

### **CAUTIOUS APPROACH OF COURTS IN MATTERS OF REPRESENTATION THROUGH ATTORNEYS**

While going through a complaint, Hon'ble the Chief Justice has been pleased to direct that "the Courts should be careful in matters where parties are being represented through attorneys (General/Special). The Courts should entertain such instruments with due care and caution particularly when they are subject of compromise in civil/criminal cases"

You are, therefore requested to convey these directions to all the Judicial Officers in your respective districts

(PHC Letter No. 4687-710/Admn/MIT, Dated 02<sup>nd</sup> April. 2014)

C.No. 13(4-3)

**PROVISION OF WHEELCHAIR ACCESSIBILITY WITHIN COURT PREMISES.**

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice, Peshawar High Court, Peshawar is pleased to direct to make arrangement of wheelchairs, ramps and pathways from the entry point in the court premises to the court rooms for easy access of the disabled /senior citizens.

It is, therefore, requested that necessary arrangements be made, for compliance of order of Hon'ble the Chief Justice and in the best public interest, please.

(PHC Letter No. 8750-73/Admn/HRD, Dated 20<sup>th</sup> May, 2014)

C.No. 14(4-3)

**DAILY SITUATION REPORT (DSR)**

I am directed to refer to this Court's letter No.3062-85/Admn dated: 05.03.2012, followed by Reminders No.3643-6/Admn dated: 17.03.2013, No. 5625-48/Admn dated: 16.04.2012 and No.11064-588/Admn dated: 23.09.2013 on the subject noted above and to inform you that the DSRs are not being received regularly from certain districts which has been noted with serious concern by Hon'ble the Chief Justice

It is once again emphasized that the reports in question be sent to this Court on daily basis regularly on Fax No.091-9210493 to Principal Staff Officer to Hon'ble Chief Justice for placing the same before his lordship.

(PHC Letter No. 15776-799/Admn, Dated 29<sup>th</sup> November, 2014)

C.No. 15(4-3)

**SLOW DISPOSAL IN CRIMINAL CASES.**

The Competent Authority has taken serious view of the slow pace of disposal in criminal cases and has suggested certain steps to improve the pace of disposal:



- I. To undertake coercive methods against the PWs on willful disobedience of Court processes.
- II. To highlight the absentioning defence counsel name in order sheet and appropriate steps to ensure his presence may be worked out locally in Bench Bar Liaison Committee meetings
- III. To establish Summon and Warrant Cell headed by a police officer not below the rank of S.I, responsible for execution of summons / warrants in criminal cases, in liaison with the police authorities.

(PHC Letter No. 469-92/Admn, Dated 15<sup>th</sup> January, 2015)

C.No. 16(4-3)

#### **DAILY SITUATION REPORT.**

It has been noted with concern that the Daily Situation Reports are not being sent to this Court on regular basis. The Competent Authority is pleased to direct that in future Daily Situation Report be sent each day at the end of working hours on regular basis on the approved proforma.

(PHC Letter. 879-902/Admn, Dated 27<sup>th</sup> January, 2015)

C.No. 17(4-3)

#### **POWER OF ATTORNEY ON STAMP PAPER OF RS, 300/-**

Enclosed find herewith copy of letter No. AS(S)3/240-III/25418-56 dated 05.11.2015, on the subject, along with enclosures, received from the Assistant Secretary (Stamps), Government of Khyber Pakhtunkhwa, Board of Revenue, Revenue & Estate Department, Peshawar, for information and necessary action, please.

(PHC Letter No.13570-534/Admn Dated 25<sup>th</sup> November, 2015)

C.No. 18(4-3)

#### **POWER OF ATTORNEY ON STAMP PAPER OF RS.300/-**

I am directed to refer to the subject and to say that this Department has already issued a circular to all concerned vide this Department letter No. AS(S)3/240/2014-15/20997-21083 dated 23/10/2014 but it regretted to say that they have not implemented the same affecting adversely the Government

revenue. It is further stated that instances have come to the notice that in most of the cases power of Attorney has been authenticated by Notary Public on Stamp Paper of Rs. 30/- and the power of Attorney on deficient paper not only lead to the loss of revenue generation but also provide occasions of excuses for the aggrieved party to agitate this defect in appellate or revisional courts.

I am, therefore, directed to request you to please direct your subordinate to obtain power of Attorney immediately on stamp paper of Rs. 300/- for attendance in the courts otherwise, this Department will be constrained to take disciplinary action against the responsible offer/official please.

(Letter No. AS(S)3/240-III/25418-56 Dated 05<sup>th</sup> November, 2015)

C.No. 19(4-3)

#### **ATTESTATION OF DOCUMENTS**

I am directed to refer to the subject noted above and to say that the Competent Authority is pleased to order that while attesting documents/degree etc, utmost care should be taken and if the degrees/documents so attested are found fake/bogus, strict action under the law shall be taken against the concerned Judicial Officer, please.

(PHC Letter No. 408-507/Admn Dated 25<sup>th</sup> January, 2016)

C.No. 20(4-3)

#### **DIRECTIVES OF THE HON'BLE CHIEF JUSTICE.**

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice has been pleased to direct that henceforth list of witnesses must be scanned so that duplication may be avoided and the official witness may not be unnecessarily summoned time and again.

This may be circulated amongst all the courts within your respective district for compliance, please.

(PHC Letter No. 14412-436/Admn: Dated 04<sup>th</sup> September,2018)

C.No. 21(4-3)

**FEMALE JUDICIAL MAGISTRATE AS MOD**

I am directed to invite your attention to this Court's letter No.9526-9549/Admn: dated: 01.10.2007, on the subject (copy enclosed), and to say that keeping in view increase in the number of female judicial officers, Hon'ble the Chief Justice has been pleased to direct that exemption from duty of MOD or otherwise of female judicial officers be considered on the basis of their ratio in the District, please.

(PHC Letter No. 111-138/Admn, Dated 03<sup>rd</sup> January, 2019)

C.No. 22(4-3)

**DIRECTIVES OF HON'BLE THE CHIEF JUSTICE; FILING OF WRITTEN STATEMENT WITHIN STIPULATED PERIOD**

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice of this Court has been pleased to direct that:

“All the Courts in the Khyber Pakhtunkhwa shall observe time frame for filling written statements as wet-forth in the first proviso to rule-1 of order –VIII CPC and in case of extension of time, the court shall record reasons for such extension. This time frame shall also be observed even when an application for rejection of plaint is filed”

The above directions shall be circulated amongst all courts of the District and shall be followed in letter and spirit.

(PHC Letter No. 77-101/HRC, Dated 10<sup>th</sup> January, 2019)

C.No. 23(4-3)

**OBSERVANCE OF CLEANLINESS WEEK IN DISTRICT JUDICIARY**

I am directed to refer to the subject noted above and to say that in order to emphasize the significance of cleanliness for providing healthy atmosphere at workplaces, his lordship Hon'ble the Chief Justice has been pleased to direct that the District Judiciary of Khyber Pakhtunkhwa shall observe first week of September as a “Cleanliness Week” every year.

You are, therefore, requested to frame a sanitation and cleanliness policy in your respective district/bench and observe cleanliness week in the first week of September in collaboration with respective Bar. Final report in this respect be submitted to this Court after observance of the cleanliness week, please.

(PHC Letter No.17855-900/Admn, Dated 20<sup>th</sup> August, 2019)

C.No. 24(4-3)

**CR.MISC. BA NO.1937-P/2019.**  
**SHAHEEN S/O SHER ALI V/S THE STATE**

I am directed to refer to the subject noted above and to convey the following extract of the Judgement dated: 07.08.2019, passed by his lordship Hon'ble the Chief Justice in the subject case:

“Before parting with this order, I direct the Registrar of this Court to circulate in all District Courts of the province that while handing over notice to the bailiff in detention cases, date along with time should be mentioned by the bailiff in his report.”

This may be circulated amongst all concerned within your respective district for strict compliance, please.

(PHC Letter No.18264-99/Admn, Dated 31<sup>st</sup> August, 2019)

C.No. 25(4-3)

**DIRECTIVES OF HON'BLE THE CHIEF JUSTICE**

I am directed to say that his lordship Hon'ble Chief Justice has directed:

- a. The cases of special persons (having disabilities) be decided expeditiously and within the shortest time frame.
- b. In all courts, necessary facilities to special person be provided.

(PHC Letter No.20279-319/Admn, Dated 10<sup>th</sup> October, 2019)

C.No. 26(4-3)

**MOD AT SUB-DIVISION LEVEL DURING SUMMER AND WINTER VACATIONS**

I am directed to refer to the subject noted above and to say that the competent authority has been pleased to direct that in the districts where the distance between the headquarter and sub-division is more than an hour the District & Sessions Judges shall depute MOD at sub-division level during the summer and winter vacations.

PHC Letter No.22351-55/PHD/SDJ/HRW/ADMIN Dated 17<sup>th</sup> December 2020

**SECTION-IV  
LEAVE AND VACATIONS**

C.No. 1(4-4)

**LAWS RELATING TO LEAVE AND VACATION**

**<sup>1</sup>[KHYBER PAKHTUNKHWA] CIVIL SERVANTS REVISED  
LEAVE RULES, 1981**

GOVERNMENT OF [Khyber Pakhtunkhwa]<sup>2</sup> FINANCE DEPARTMENT  
(SR-IV SECTION)

**NOTIFICATION  
17<sup>TH</sup> December, 1981**

No.FD.SO (SR-IV)5-54/80(Vol: II). \_\_In exercise of the powers conferred by section 26 of the [Khyber Pakhtunkhwa]<sup>3</sup> Civil Servants Act, 1973 [(Khyber Pakhtunkhwa)<sup>4</sup> Act XVIII of 1973] and in supersession of this Department's Notification No.FD.SO(SR-IV)1-17/78, dated the 20<sup>th</sup> November, 1979, the Governor of the <sup>5</sup>[Khyber Pakhtunkhwa] is pleased to make the following rules namely:-

**[KHYBER PAKHTUNKHWA]<sup>6</sup> CIVIL SERVANTS REVISED LEAVE  
RULES, 1981**

**1. Short title, commencement and application.** \_\_ (1) These rules may be called the [Khyber Pakhtunkhwa]<sup>7</sup> Civil Servants Revised Leave Rules, 1981.

(2) They shall come into force at once

(3) They shall apply to all Civil Servants under the rule making authority of the Governor except those who opted not to be governed by the [Khyber Pakhtunkhwa]<sup>8</sup> Civil Servants Leave Rules, 1979.

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<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>2</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>3</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>4</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>5</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>6</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>7</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>8</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

**2. Admissibility of Leave to Civil Servant.** \_\_ Leave shall be applied for, expressed and sanctioned in terms of days and shall be admissible to a civil servant at the following rate and scale: \_\_

- (i) A civil servant shall earn leave only on full pay. It shall be calculated at the rate of four days for every calendar months of the period of duty rendered and credited to the leave account as “leave on fully pay” duty period of 15 days or less in a calendar month being ignored and those of more than 15 days being treated as a full calendar month, for the purpose. If a civil servant proceeds on leave during a calendar month and returns from it during another calendar month and the period of duty in either month is more than 15 days, the leave to be credited for both the incomplete months will be restricted to that admissible for one full calendar month only.
- (ii) The provisions of clause (i) will not apply to vacation departments. A civil servant of a vacation department may earn leave on full pay as under: \_
- |     |  |   |
|-----|--|---|
| (a) | When he avails himself of vacation in a calendar year                            | At the rate of one day for every calendar month of duty rendered;   |
| (b) | When during any year he is prevented from availing himself of the full vacation. | As for a civil servant in non-vacation Department for that year; and  |
| (c) | When he avails himself of only a part of the vacation                            | As in (a) above plus such proportion of thirty days as the number of days of vacation not taken bears to the full vacation. |
- (iii) There shall be no maximum limit on the accumulation of such leave.

Note\_\_\_\_<sup>1</sup> (deleted).

**3. When leave earned.** \_\_ (a) All service rendered by a civil servant qualifies him to earn leave in accordance with these rules but shall not be earned during the period of leave.

<sup>1</sup> Deleted by Notification No. FD.50 (SR-IV) 5-54/80 (Vol.II), dated 1.6.1982

- (b) Any period spent by a civil servant in Foreign Service qualifies him to earn leave provided that a contribution towards leave salary is paid to the Government on account of such period.

**4. Grant of Leave on Full Pay.** \_\_ (1) The maximum period of leave on full pay that may be granted at one time by the competent authority shall be as follows: -

- |             |   |          |
|-------------|---|----------|
| (i)         | Without medical certificate                                 | 120 days |
| (ii)        | With medical certificate                                    | 180 days |
| <b>PLUS</b> |   |          |
| (iii)       | On medical certificate from leave account in entire service | 365 days |

(2) The maxima prescribed at (i) and (ii) of sub-rule (1) are independent of each other. In other words, a civil servant may be granted, at a time, total leave on full pay on medical certificate up to the permissible extent in continuation of leave up to 120 days without medical certificate, subject to given conditions.

**5. Grant of Leave on Half Pay.** \_ (1) Leave on full pay may be converted into leave on half pay, at the option of the civil servant.

(2) Debits to the leave account will be at the rate of one day of the former for every two days of the latter, fraction of one-half counting as one full day's leave on full pay.

(3) The request for such conversion shall be specified by the civil servant in his application for the grant of leave.

(4) There shall be no limit on the grant of leave on half pay so long as it is available by conversion in the leave account.

**6. Conversion of Leave Account.** \_\_ (1) All leave at credit in the account of a civil servant who was in service on the 1st day of July, 1978, shall be carried forward and expressed in terms of leave on full pay. The leave account in such cases shall, with effect from 1st July, 1978 or in the case of a civil servant who was on leave on that date with effect from the date of his return from leave, be recast as under, ignoring the fraction if any:-



(i)	Leave on full pay__	
	(a) 1 month	30 days
	(b) 1 day	1 day
(ii)	Leave on half pay__	
	(a) 1 month	15 days
	(b) 2 days	1 day

(2) In carrying forward the leave, the leave at credit of a civil servant in columns 7 and 8 and half of the leave at credit in column 9 of the existing leave account shall be carried forward to the new leave account of the civil servant.

(3) The leave availed under the existing rules from column 13 (a) of the leave account shall be debited against the maximum limit of three hundred and sixty-five days fixed under rule 4(1) (iii).

**7. Leave not due.** \_\_ (1) Leave not due may be granted on full pay, to be offset against leave to be earned in future, for a maximum period of three hundred and sixty-five days in the entire period of service, subject to the condition that during the first five years of service it shall not exceed ninety days in all.

(2) Such leave may be converted into leave on half pay.

(3) Such leave shall be granted only when there are reasonable chances of the Civil Servant resuming duty on the expiry of the leave.

(4) Such leave shall be granted sparingly and to the satisfaction of the sanctioning authority but it shall not be admissible to the temporary civil servants.

**8. Leave Salary.** \_\_ (1) Leave pay admissible during leave on full pay shall be the greater of-

- (a) the average monthly pay earned during the twelve complete months immediately preceding the month in which the leave begins; and
- (b) the rate equal to the rate of pay drawn on the day immediately before the beginning of the leave.

(2) When leave on half pay is taken, the amount calculated under clause (a) and (b) of sub-rule (1) shall be halved to determine the greater of the two rates.

<sup>1</sup> [(3) A civil servant shall be entitled to the leave pay at the revised rate of pay if a general revision in pay of civil servants takes place or an annual increment occurs during the period of leave of the civil servant].

**9. Special Leave to Female Civil Servants.** \_\_ A female civil servant may, on the death of her husband, be granted special leave on full pay not exceeding 130 days. This leave shall not be debited to her leave account and will commence from the date of death of her husband. For this purpose, she will have to produce death certificate issued by competent authority either along with her application for special leave or, if that is not possible, the said certificate may be furnished to the leave sanctioning authority separately.

**10. Maternity Leave.** \_\_ (1) Maternity leave may be granted on full pay, outside the leave account, to a female civil servant to the extent of ninety days in all from the date of its commencement or forty five days from the date of her confinement, whichever be earlier.

(2) Such leave may not be granted for more than three times in the entire service of a female civil servant except in the case of a female civil servant employed in a vacation department who may be granted maternity leave without this restriction.

(3) For confinement beyond the third one, the female civil servant would have to take leave from her normal leave account.

(4) The spells of maternity leave availed of prior to the coming into force of these rules shall be deemed to have been taken under these rules.

(5) Maternity leave may be granted in continuation of, or in combination with, any other kind of leave including extraordinary leave as may be due and admissible to a female civil servant.

(6) Leave salary to be paid during maternity leave shall be regulated as for other leave, in accordance with the formula provided in rule 8.

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<sup>1</sup> Added by Notification No. FD.SO(SR-IV)5-54/80-Vol.III, dated 26.10.1994

(7) The leave salary to be paid during maternity leave will, therefore, remain unaffected even if any increment accrues during such leave and the effect of such an increment will be given after the expiry of maternity leave.

**11. Disability Leave.** \_\_ (1) Disability leave may be granted outside leave account on each occasion up to a maximum of seven hundred and twenty days on such medical advice as the head of office may consider necessary, to a civil servant, other than civil servant in part time service, disabled by injury, ailment or disease contacted in course or in consequence of duty or official position.

(2) The leave salary during disability leave shall be equal to full pay for the first one hundred and eighty days and on half pay for the remaining period.

**12. Extraordinary Leave. (Leave without pay).** \_\_ (1) Extraordinary leave may be granted on any ground up to a maximum period of five years at a time; provided that the civil servant to whom such leave is granted has been in continuous service for a period of not less than ten years. In case a civil servant has not completed ten years of continuous service, extraordinary leave without pay for a maximum period of two years may be granted at the discretion of the leave sanctioning authority. This leave can be granted irrespective of the fact whether a civil servant is a permanent or temporary employee.

(2) The maximum period of extraordinary leave without pay combined with leave on full pay and leave on half pay shall be subject to the limit of 5 years prescribed in FR-18, i.e. the maximum period of extraordinary leave without pay that would be admissible to a civil servant who has rendered continuous service for a period of not less than 10 years shall be 5 years less the period of leave on full pay and leave on half pay so combined.

<sup>1</sup>[(3) Extraordinary leave may be granted retrospectively in lieu of absence without leave].

**13. Leave on Medical Certificate.** \_\_ Leave applied for on medical certificate shall not be refused. The authority competent to sanction leave may, however, at its discretion, secure a second medical opinion by requesting the Civil Surgeon or the Medical Board to have the applicant medically examined. The existing provisions contained in Supplementary

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<sup>1</sup> Added by Notification No. FD-SO(SR-IV)5-54/80(Vol-II) dated 1.6.1982

Rules 212, 213 and Rule 220 to 231 for the grant of leave on medical grounds will continue to apply.

**14. Leave Preparatory to Retirement.** \_\_ The maximum period up to which a Civil Servant may be granted leave preparatory to retirement shall be 365 days only. It may be taken subject to availability in the leave account, either on full pay or partly on full pay and partly on half pay, or entirely on half pay, at the discretion of the Civil Servant and it will not extend beyond the age of superannuation.

**15. Recreation Leave.** \_\_ Recreation leave may be granted for fifteen days once in a calendar year, the debit to the leave account may, however, be for ten days leave on full pay:

Provided that such leave shall not be admissible to a Civil servant in a vacation department.

Note: Casual Leave (as Recreation Leave) shall, however, continue to be granted for 10 days only subject to other conditions under Government instructions.

**16. Leave Ex-Pakistan.** \_\_ (1) Leave Ex-Pakistan may be granted on full pay to a civil servant who applied for such leave or who proceeds abroad during leave, or takes leave while posted abroad or is otherwise on duty abroad and makes a specific request to that effect.

(2) The leave pay to be drawn abroad shall be restricted to a maximum of three thousand rupees per month.

(3) The leave pay shall be payable in sterling, if such leave is spent in Asia other than Pakistan and India.

(4) Such leave pay shall be payable for the actual period of leave spent abroad subject to maximum of one hundred and twenty days at a time.

(5) The civil servants appointed after 17<sup>th</sup> May, 1958 shall draw their leave salary in rupees in Pakistan irrespective of the country where they spent their leave.

(6) Leave Ex-Pakistan will be regulated and be subject to the same limits and conditions as prescribed in rule 4,5 and 12.

**17. Assigning reasons for leave.** \_\_\_ It shall not be necessary to specify the reasons for which leave has been applied, so long as that leave is due and admissible to a civil servant.

**18. Commencement and end of leave.** \_\_\_ Instead of indicating whether leave starts/ends in the forenoon or after-noon, leave shall commence from the day following that on which a civil servant hands over the charge of his post. It shall end on the day preceding that on which he resumes duty.

**19. Absence after the expiry of leave.** \_\_\_ Unless his leave is extended by the leave sanctioning authority, a civil servant who remains absent (except for circumstances beyond his control) after the end of his leave shall not be entitled to any remuneration for the period of such absence and double period of such absence shall be debited against his leave account. Such debit shall if there is insufficient credit in the leave account, be adjusted against future accumulations. Such double debit shall not preclude any disciplinary action that may be considered necessary under any rule for the time being in force after affording a reasonable opportunity to the civil servant concerned to indicate his position.

<sup>1</sup>**[20. Encashment of Leave Preparatory to Retirement.** \_\_\_<sup>2</sup>(1) Where a civil servant opts not to avail the leave preparatory to retirement admissible to him under rule 14, he shall be allowed leave salary for the period for which leave preparatory to retirement is admissible, subject to a maximum of <sup>3</sup>[three hundred and sixty-five] days. For the purpose of lump sum payment in lieu of leave preparatory to retirement only the senior post allowance will be included in the leave pay so admissible. The payment of leave pay in lieu of leave preparatory to retirement may be made to the civil servant either in lump sum at the time of retirement or may at his option, be drawn by him month wise, in arrears, for and during the period of leave preparatory to retirement. This amendment shall take effect from 1.7.1983].

<sup>4</sup>[(2) Encashment of leave preparatory to retirement (LPR) not exceeding three hundred and sixty-five days shall be effective from the first day of July, 2012 and shall, for the entire period of leave refused or opted for encashment, be applicable to a civil servant retired, as the case may be, retiring on or, after the first day of July, 2012, provided such leave is available at his credit to a maximum of three hundred and sixty-five days.

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<sup>1</sup> Substituted by Notification No. FD.SO (SR-IV) 5-54/80(Vol:II), dated 24<sup>th</sup> August, 1983.

<sup>2</sup> Substituted by Notification No.SO (FR) FD 5-92/2005/VOL-V dated 13-12-12

<sup>3</sup> Substituted by Notification No.SO (FR) FD 5-92/2005/VOL-V dated 13-12-12

<sup>4</sup> Substituted by Notification No.SO (FR) FD 5-92/2005/VOL-V dated 13-12-12

(3) If at any time during such period, leave is granted on account of ill health supported by medical certificate or for performance of Hajj, the amount of cash compensation on account of leave pay shall be reduced by an amount equal to the leave pay for the period of leave so granted.

(4) Leave pay for the purpose of encashment of LPR shall be computed on the basis of pay and allowances reckonable towards pension as shown on the last pay certificate of a civil servant.]

<sup>1</sup> [21. **In Service Death, etc.** \_\_ (1) In case a civil servant dies, or is declared permanently incapacitated for further service by a Medical Board, while in service, a lump sum payment equal to leave pay up to <sup>2</sup>[365] days out of the leave at his credit shall be made to his family as defined for the purposes of family pension or, as the case may be, to the civil servant].

(2) For the purpose of lump sum payment under sub rule (1), only the “senior post allowance” will be included in the “leave pay” so admissible.

**22. Recall from Leave.** \_\_ If a civil servant is recalled to duty compulsorily with the approval of the leave sanctioning authority, from leave of any kind, which he is spending away from his headquarters, he may be granted single return fare plus daily allowance as admissible on tour from the station where he is spending his leave to the place where he is required to report for duty. In case he is recalled to duty at headquarters and his remaining leave is cancelled, the fare then admissible shall be for one-way journey only. If the order of recall to the civil servant is optional then the concession above mentioned will not be admissible.

**23. Any type of leave may be applied.** \_\_ A civil servant may apply for the type of leave which is due and admissible to him and it shall not be refused on the ground that another type of leave should be taken in the particular circumstances for example, a civil servant may apply for extraordinary leave or leave on half pay even if leave on full pay is otherwise due and admissible to him, or he may proceed on extraordinary leave followed by leave on half pay and full pay rather than on full pay, half pay and without pay.

**24. Combination of different types of leave etc.** \_\_ One type of leave may be combined with joining time or with any other type of leave otherwise admissible to the civil servant:

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<sup>1</sup> Substituted by Notification No. FD.SO (SR-IV) 5-54/80 (Vol: III), dated 3.5.1988.

<sup>2</sup> Substituted vide Finance Department Notification No. SO(FR)FD/5-92/2005/Vol-V/6040 dated 25.08.2017

Provided that leave preparatory to retirement shall not be combined with any other kind of leave.

**25. Civil Servants on leave not to join duty without permission before its expiry.** \_ unless he is permitted to do so by the authority which sanctioned his leave a civil servant on leave may not return to duty before the expiry of the period of leave granted to him.

**26. Leave due may be granted on abolition of post, etc.**\_\_ (1) When a post is abolished, leave due to the civil servant, whose services are terminated in consequence thereof, shall be granted without regard to the availability of a post for the period of leave.

(2) The grant of leave in such cases shall, so long as he does not attain the age of superannuation be deemed automatically to have also extended the duration of the post and the tenure of its incumbent.

**27. Manner of handing over charge when proceeding on leave, etc.**\_\_ (1) A civil servant proceeding on leave shall hand over the charge of his post, and if he is in Grade-16 and above, he shall, while handing over charge of the post, sign the charge relinquishment report.

(2) If leave ex-Pakistan has been sanctioned on medical grounds, the civil servant shall take abroad with him copy of the medical statement of his case.

**28. Assumption of charge on return from leave, etc.**\_ (1) A civil servant, on return from leave, shall report for duty to the authority that sanctioned his leave and assume charge of the post of which he is directed by that authority unless such direction has been given to him in advance.

(2) In case he is directed to take charge of a post at a station other than that from where he proceeded on leave, travel expenses as on transfer shall be payable to him.

**29. Account Office to maintain leave account.**\_(1) Leave account in respect of a civil servant shall be maintained as part of his Service Book.

(2) The Account Offices shall maintain the leave accounts of civil servants of whom they were maintaining the accounts immediately before the coming into force of these rules.

**30. Leave to lapse when civil servant quits service.** \_ All leave at the credit of a civil servant shall lapse when he quits service.

**31. Leave application, its sanction, etc.**\_ (1) Except where otherwise stated, an application for leave or for an extension of leave must be made to the head of office where a civil servant is employed and, in the case of the head of office to the next-above administrative authority and the extent of leave due and admissible shall be stated in the application.

(2) An audit report shall not be necessary before the leave is sanctioned.

(3) When a civil servant submits a medical certificate for the grant of leave, it shall be by an authorized medical attendant in the form attached to these rules.

(4) Leave as admissible to a civil servant under these rules may be sanctioned by the head of a Department, Attached Department, Office or any other officer authorized by him to do so and, when so required, leave shall be notified in the official Gazette.

(5) In cases where all the applications for leave cannot, in the interest of public service, be sanctioned to run simultaneously, the authority competent to sanction leave shall, in deciding the priority of the applications consider:

- (i) whether, and how many applicants can, for the time, best be spared;
- (ii) whether any applicants were last recalled compulsorily from leave ;and
- (iii) whether any applicants were required to make adjustment in the timing of their leave on the last occasion.



**FORM OF MEDICAL CERTIFICATE  
FORM-I**

Signature of applicant \_\_\_\_\_

**MEDICAL CERTIFICATE FOR CIVIL SERVANTS RECOMMENDED  
FOR LEAVE OR EXTENSION**

I \_\_\_\_\_  
after careful \_\_\_\_\_ personal examination of the case, hereby  
certify that, \_\_\_\_\_ whose signature is given above, is  
suffering from \_\_\_\_\_ and I consider that a period of absence  
from duty of \_\_\_\_\_ more with effect  
from \_\_\_\_\_ is absolutely necessary for the  
restoration of his/her health.

Dated, the \_\_\_\_\_ Government Medical Attendant

**APPLICATION FOR LEAVE  
FORM-II**

Notes: - Item 1 to 9 must be filled in by all applicants. Item 12 applies only in the case of Government servants of Grade 16 and above.

- 1. Name of applicant.
- 2. Leave Rules applicable.
- 3. Post held
- 4. Department or office
- 5. Pay
- 6. House rent allowance/conveyance allowance or other compensatory allowances drawn in the present post.
- 7. Nature of leave applied for.
  - (a) Nature of leave applied for.
  - (b) Period of leave in days.
  - (c) Date of commencement.
- 8. Particular Rule /Rules under which leave is admissible.
- 9. (a) Date of return from last leave.
  - (b) Nature of leave.
  - (c) Period of leave in days.

Signature of applicant

- 10. Remarks and recommendation of the Controlling Officer.
- 11. Certified that leave applied for is admissible under Rule and necessary conditions are fulfilled.

Signature  
Designation

- 12. Report of Audit office.

Signature  
Designation

- 13. Orders of the sanctioning authority certifying that on the expiry of leave the application is likely to return to the same post carrying the compensatory allowances being drawn by him.

Signature  
Designation

Dated .....

FORM III																								
FORM OF LEAVE ACCOUNT UNDER THE REVISED LEAVE RULES,1981																								
Leave Account of Mr./Miss/Mrs..... Date of commencement of service..... Date of attaining age of superannuation.....					(N.B---Instruction for filling in the form are printed on the succeeding pages.																			
Government/Department served under	PERIOD OF DUTY				Leave earned on full Pay 4 days for each calendar month.	Leave at Credit(column 21+6)	LEAVE TAKEN (From Column 8 to 20)														Total Leave (Columns 10,11,12,14,15,17,18)	Balance on 1.7.1978/return from leave (Columns 7-20)	Re- mar- ks	ATTESTATION
							PERIOD		Leave on Full pay without medical certificate subject to maximum of 120 days & 365 days in case of L.P.R.	Leave on full pay on medical certificate subject to maxim of 180 days.	Leave on full pay on medical certificate subject to maximum of 365 days in entire service.	LEAVE ON HALF PAY		Recreation leave of 15 days in a year but 10 days to be debited.	LEAVE NOT DUE		ABSENCE							
							From	To				Days	Days		Days	Days	Days	Days	Days	Days				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23		
	From	To	Y.M.D.	Full Cal- end- ar mon ths	Days	Days	From	To	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days		

C.No. 2(4-4)

### **THE WEST PAKISTAN CASUAL LEAVE RULES 1956<sup>1</sup>**

Government has decided to issue the following orders in supersession of all previous orders on the subject of the grant of casual leave to Government servants. These orders will also supersede all orders issued by the integrating units in respect of Summer Spell or Hot Weather Leave which can now be taken only in the form of casual leave.

2. (a) Casual leave should not ordinarily exceed 10 days at a time and 25 days during any one calendar year. The sanctioning authority may, however, grant casual leave upto 15 days at a time in special circumstances.
- (b) It may be granted in conjunction with Sundays or public holidays, but not with any other kind of leave or joining time. In case casual leave is combined with holidays the total period should not exceed 15 days at a time.
3. No Government servant may leave his headquarters during casual leave or holidays except with the permission of the sanctioning authority.
4. [Subject to the delegation of powers which has been or may be made by Government from time to time in this behalf, casual leave may be sanctioned to a Government servant by his immediate superior of Gazetted status.]<sup>2</sup>

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<sup>1</sup> These rules were issue vide Memorandum No.S(R)-21-42/56 Dated Lahore 10<sup>th</sup> June 1956 from the Office of Chief Secretary to Government of West Pakistan. As per the letter No.914 Gaz/XXIX-N.14 Dated Lahor 20<sup>th</sup> January 1958 these rules read with Memorandum No.S(R)-21-24/57 dated 29<sup>th</sup> April 1957 are applicable to Non-Gazetted staff in the district. As far judicial officers are concerned their casual leave are governed by the instructions of the High Court

<sup>2</sup> Substituted vide letter No.S.O.XII-21-21/58 Government of West Pakistan Dated Lahor 30<sup>th</sup> October 1958

**SECTION-V****INSTRUCTIONS RELATING TO LEAVE AND VACATIONS**

C.No. 1(4-5)

**CASUAL LEAVE RULES OF JUDICIAL OFFICERS**

The Rules on the subject of casual leave are to be found in paragraphs 10.3 to 10.10 of the Subsidiary Rules (Fundamental Rules Volume II). The original object of the casual leave was to enable an officer to leave his duty for a day or two to attend to an urgent private business without demitting the charge of his duties and thereby making it necessary to appoint someone to officiate in his place. This is still the idea which underlines the grant of casual leave, though the practice has been somewhat extended. Government servants are not entitled to casual leave as of right. It is entirely within the discretion of the sanctioning authority either to refuse or sanction leave. Undoubtedly, the sanctioning authority will use its discretion judiciously and take steps to ensure that the leave is allowed to the extent considered necessary and proper. In case leave is not sanctioned and the Judicial Officer concerned remains away, his absence is to be treated as unauthorized and he shall not be entitled to pay for that period. In addition, action can be taken against him, as willful absence amounts to 'misconduct'.

- 1). The District and Sessions Judges/Additional District and Sessions Judges are entitled to a total period of 25 days casual leave during a year commencing from the 15<sup>th</sup> of April. They can ordinarily have only one period of casual leave exceeding 07 days but not exceeding 15 days at a time during the leave year.
- 2). The District and Sessions Judges/Additional District and Sessions Judges are to apply to the High Court, whatever be the number of days, for which casual leave is required by them.
- 3). The period during which any Judicial officer of the rank of a District and Sessions Judges/or an Additional District and Session Judge, remains absent from court, but not from the headquarters, on account of illness, shall be reported to the High Court even if this does not exceed four days, so that a separate account of such absences may be kept, though this period is not to be debited to the leave account of the officer concerned. Should the period of absence from court, on account of sickness exceeds four days, the total period

of such absence will be debited to the casual leave account of the Officer concerned subject to admissibility of the casual leave.

4). The District and Sessions Judges/Additional District and Sessions Judges if need urgently a short leave up to a period of 04 days and orders of the High Court are not received in time, the Officer may proceed on leave in anticipation of sanction, if the object for which leave is desired would be otherwise defeated.

5). Casual leave may not be combined with the summer vacation leave granted to the District and Sessions Judges/Additional District and Sessions Judges and ordinarily casual leave is not to be granted to them so as to end or begin less than a week before or after the summer vacation.

6). The total amount of casual leave allowed to the Senior Civil Judges/Civil Judges is also 25 days. They are eligible to have one period of casual leave exceeding 04 days but not exceeding 15 days during summer i.e. from 15<sup>th</sup> of April to 14<sup>th</sup> of October and another period exceeding 04 days but not exceeding 10 days during the winter i.e. from the 15<sup>th</sup> of October to 14<sup>th</sup> of April.

7). In the case of casual leave granted to the District and Sessions Judges/Additional District and Sessions Judges and Senior Civil Judges/Civil Judges holidays may not be prefixed or affixed to casual leave but one Sunday either at the beginning or end of the leave may be combined with it. All other holidays shall be included in the period of leave taken but such holidays will not, however, be counted as casual leave enjoyed.

Casual leave may not be combined with the vacation of subordinate courts and ordinary casual leave is not to be granted so as to end or begin less than a week before or after the vacation.

8). When submitting application for grant of casual leave, the judicial officers are required to state the purpose for which the leave is required, as well as to make a report about the arrangement which have been made for dealing with the cases, if any fixed during the period of leave.

9). When an application for a period of casual leave exceeding 04 days is submitted to the High Court, the following form must invariably accompany it with all details filled in by the District and Sessions Judges concerned and duly signed by them:

- i. Application for casual leave by
- ii. Leave asked for \_\_\_\_\_ days, from \_\_\_\_\_ to \_\_\_\_\_
- iii. (a) Gazetted holidays before \_\_\_\_\_  
Gazetted holidays after \_\_\_\_\_
- (b) Local holidays before \_\_\_\_\_  
Local holidays after \_\_\_\_\_
- iv. Number of times leave in excess of 04 days at a stretch has already been taken since 15<sup>th</sup> April
- v. Total leave taken prior to present application since 15<sup>th</sup> April
- vi. Place where leave will be spent
- vii. Pending files on the date of application.

Appeals

Regular suits (each class to be stated separately)

Small cause court suits

Insolvency and guardianship cases

Executions (regular and small cause separately)

10). Those Civil Judges who exercise the criminal powers will not be granted casual leave, save for really urgent reasons, for the grant of such leave may involve the adjournments of the hearing of important criminal cases. In all cases where a Civil Judge who exercises criminal powers is granted leave, the District Magistrate concerned must be informed.

11). When casual leave is granted to a Senior Civil Judge / Civil Judge who is responsible for the control of monetary transactions by Nazirs or Naib-Nazirs, such Civil Judge must within a week of his return from casual leave forward a certificate to the District and Sessions Judge that he has

carefully scrutinized the records of all the transactions which took place in his absence and he has satisfied himself that no irregularities were committed.

12). Applications for casual leave should be submitted well in advance from the date it is wanted and care must be taken that no case is fixed for hearing during the period of absence of leave. The District and Sessions Judges should generally refuse to forward applications for casual leave which are not made in an ample time to permit a reply from the High Court in the ordinary course, unless urgency is proved, unless this condition is fulfilled such applications will be summarily rejected when received in the High Court.

13). Casual leave for which the sanction of his Lordship the Chief Justice is necessary, should not be granted by the District and Sessions Judges in 'anticipation of sanction' save in cases of grave urgency, where casual leave has been sanctioned by his Lordship, the Chief Justice no subsequent change of dates should be permitted by the District and Sessions Judges without the previous permission of sanctioning authority. Such applications should, however, be discouraged in view of the dislocation of work and inconvenience and expenses which they entail to all concerned.

14). All applications for casual leave by Judicial Officers must state the place where the applicant proposes to spend his leave. The giving of address would not be sufficient but an address of urgent correspondence should always be left with the District and Sessions Judges, by Senior Civil Judges/Civil Judges and in his office by the District /Additional District and Sessions Judges.

15). When an officer is compelled by the circumstances to ask for the grant of casual leave by telegram, he should in no case forward postage stamps to meet the costs involved. The cost of the telegram sent in reply will always be intimated to him and he should thereupon make the necessary deposit in the local treasury informing the High Court (through proper channel), that this has been done.

16). The District and Sessions Judges are empowered to grant casual leave not exceeding 04 days at a time to the Civil Judges under their control, provided where the period of such leave exceeds the limit of 04 days, the High Court shall alone be competent to grant the leave.



17). The District and Sessions Judges may absent themselves from their divisions on gazetted holidays without previous reference to the High Court provided that:

- i. They do not leave their court earlier or return later than the regular hours.
- ii. Their judgments are not in arrears.
- iii. They report the actual period of absence, specifying the dates, to the Registrar, Peshawar High Court, Peshawar.
- iv. They certify that the holidays are not spent outside their home districts in the N.W.F.P.

18). No Civil Judge may leave his headquarter during the casual leave or holidays except with the permission of the sanctioning authority.

19). It is the primary duty of the Clerk of Court of the Sessions Courts to see that the casual leave applications of the Judicial Officers are quite in accordance with the rules and if not they may be got corrected accordingly and then forwarded to the High Court for necessary action, otherwise they will be held responsible for their negligence and will be exposed to disciplinary action.

(With covering letter PHC letter No. 1764-181 dated 18-4-1974)

C.No. 2(4-5)

### **SUBMISSION OF CASUAL LEAVE APPLICATIONS**

I am directed to say that it has come to the notice of the Hon'ble Chief Justice that while forwarding casual leave applications of civil Judges etc the prescribed forms as mentioned in rule 9 of the casual leave rules are not attached.

I am, therefore, directed to say that in future such like applications must invariably be accompanied by the aforesaid forms duly filled in and signed by the District and Sessions Judge concerned.

In case of non-compliance of the order, the casual leave applications will not be entertained.

(PHC letter No: 3522-51 Dated: 02<sup>nd</sup> April, 1985)

C.No. 3(4-5)

### **ACCUMULATION OF EARNED LEAVE STAFF**

I am directed to refer to your letter No.9633, dated 17.10.1984 on the subject and to say that only the Civil Judges belong to Vacation Department. The District/Additional District and Sessions Judges do not belong to Vacation Department as they do not figure amongst the Departments defined in Appendix 18 C.S.R (Punjab), Volume I Part I; however they are allowed by the High Court a spell of three/two weeks vacation under Annexure 1 to Rule 8.60 C.S.R. (Punjab), Volume I part, subject to the conditions laid down in this Court's Circular letter No.7969-JOB.3/3, dated 19.06.1984.

(PHC letter No.4703/A/XXII-2, Dated Lahore, the 20<sup>th</sup> April, 1985)

Note- The letter is addressed to Registrar Peshawar High Court from the Registrar, Lahore High Court.

C.No. 4(4-5)

### **CASUAL LEAVE- ABSENCE OF JUDICIAL OFFICERS FROM DUTY ON SHORT NOTICE**

I am directed to address you on the subject and to say that some judicial officers absent themselves from the court duties at a very short notice. This sort of availing the casual leave is not only irregular but also causes great hardships to the litigant public, their witness and counsel. In this respect rule-5 chapter-2 of the High Court Rules and orders Vol: IV enjoins that: -

“All subordinate judges should submit their application for casual leave well in advance of the time at which they intend to proceed on casual leave and in doing so they should arrange, when-ever this is practicable, and no cases are fixed for hearing the period for which they intend to be absent”.

2. Pursuant to the above, Hon'ble the Chief Justice has been pleased to direct that all judicial officers shall see that no unnecessary hardship is caused to the litigants, their witnesses and counsel in case of availing the casual leave by them.

3. Hon'ble the Chief Justice further hopes that these order will be complied with in letter and spirit. In the event of non-compliances of these instructions the casual leave application will not be entertained.

(PHC letter No. 9312-391 Dated: 12.10.1985)

C.No. 5(4-5)

**FUNCTION OF SUBORDINATE JUDICIARY DURING SUMMER VACATION.**

I am directed to say that in summer vacations in a civil matter, the honorable Judge of this Court has been pleased to make the following observations:-

“The learned Judge of District Court is the Principal Civil Court of the District and it is his duty under the procedure to nominate Presiding Officer of a civil court for hearing of such like applications during summer vacations of the civil courts for the month of August each year. I will go to the extent that one of the Civil Judge be allocated the duty of deciding such like applications or entertaining suits, applications etc of urgent nature during the said summer vacations”.

The matter was put up before the Administration Committee of this Court and a proposal for amendment of rule 3. Chapter 3-B, High Courts Rules and Orders Volume V was placed on 24.09.1992. The honorable members of the Committee after considering the proposal and the amended rule 3 chapter 3-B, High Court Rules and Orders Volume V made that the following observations: -

“In the light of the legal position already existing on the subject and being followed since long, it is felt that otherwise no cogent grounds or any other difficulty exists to disturb the prevalent system which is being followed without any legal hindrance, nor the rule is in any manner adverse to public interest. Such being the position, the Committee directs that all the subordinate courts be informed accordingly”.

The above observation made by the Hon’ble members of the Administration Committee of this Court is being communicated to you for your guidance and compliance.

(PHC letter No. 6463-6500/Admn: Brh: Dated Pesh: the 20<sup>th</sup> Oct: 1992)

C.No. 6(4-5)

### **STATION LEAVE/STAY AT THE PLACE OF POSTING**

I am directed to address you on the subject noted above and to say that it has come to the notice of Hon'ble the Chief justice and judges of this Court that some judicial Officers commute between their residences located elsewhere, and the station of their posting, and some judicial Officers leave their stations of posting without obtaining station leave. These practices not only offend against the rules but also affect the performance and efficiency of the defaulting officers.

You are, therefore, directed to ensure that no Judicial Officer leave the Station of his posting without obtaining station leave. Besides, a certificate be furnished within a week that Judicial Officer residing outside the limits of their station have shifted to their place of posting.

(PHC letter No. 9349-9370:- Dated Peshawar the 10/11/1997)

C.No. 7(4-5)

### **PRESENCE AT THE STATION OF DUTY**

I am directed to forward herewith a copy of Provincial Government letter No. SOI (S&GAD) 1-1/98 dated 8<sup>th</sup> November, 1999, containing instructions on the subject noted above for compliance. Attention is also invited to this Court's circular letter No. 9349-9370, sated 10.11.1997 whereby all the District and sessions Judges in the Province were directed to ensure that no judicial Officer shall leave the station of his posting without station leave. Moreover, they shall furnish a certificate within a week that Judicial Officers residing outside the limits of their stations have shifted to their place of posting.

The instructions contained in the above referred circular letter are once again reiterated with the direction that all the judicial Officers in the province shall furnish a certificate afresh that he/she is residing within the limits of his/her station of posting Violation of these instructions would make the defaulting officers liable to disciplinary action under the NWFP, Government Servants (Efficiency and Discipline) Rules, 1973.

(PHC letter No.10933-11032 Admn. Dated Pesh: the 23<sup>rd</sup> Nov: 1999)

C.No. 8(4-5)

**CHIEF JUSTICE DIRECTIVE # 17  
(NON-AVAILING OF REGULAR VACATIONS)**

I am directed to refer to the subject noted above and to say that Hon'ble Chief Justice, during his recent visits to various districts has been pleased to observe that the Civil Judges / Judicial Magistrates sometimes do not avail the regular vacations due to official duty and they are not given the leave credit by the Accounts Office concerned. In order to protect the rights of the subordinate Judges and their ministerial establishment, Hon'ble the Chief Justice has desired to issue the following instructions.

“Under the Rules the subordinate Judges (i.e. Civil Judges, Senior Civil Judges and their establishment) are vacation department (SR 264). In the event of non-availing of full or part vacation by these judges & establishment the concerned Account Office is bound to credit proportionate earned leave to their leave Account (Rule 2(ii) of the N.W.F.P Civil Servants Revised Leave Rules, 1981). All such Judges & Ministerial Staff should send certificate of official duty during vacation to concerned Account office for the purpose.”

You are, therefore, directed to please circulate these instructions amongst all the concerned Judicial Officers of your district.

(PHC letter No. 5340-5363/Admn: Dated 21<sup>st</sup> May, 2004)

C.No. 9(4-5)

**INSTRUCTIONS REGARDING CASUAL LEAVE BY THE  
JUDICIAL OFFICERS**

I am directed to refer to the subject noted and to say that the Competent Authority has taken serious view of the escalating trend of casual leave in anticipation of sanction by the Judicial Officers and the practice of clubbing casual leave with holidays.

While reviewing instructions on the subject circulated vide this Court's letter No. 1764-181 dated 18<sup>th</sup> April, 1974, in order to check the availing of casual leave in anticipation of sanction and to streamline the matters connected thereto, the Competent Authority has been pleased to direct that: -

1. Henceforth no Judicial Officer shall leave the station **prior to sanction** of leave sought for, except in acute emergencies, to be verified by the District & Sessions Judge concerned.

2. The purpose of casual leave, short leave or permission to leave the station shall **clearly and specifically** be mentioned in the relevant space of the leave form, mentioned hereinafter.

3. Before proceeding on casual leave, Judicial Officers must ensure the compliance of **Rule 4 Chapter I-K Vol-I** of the High Court Rules & Orders, which is reproduced hereunder: -

“On the occurrence of an unexpected holiday or the unexpected absence of an Officer, the Presiding Officer, before his departure or before finishing the work on the day preceding the holiday, should himself fix fresh dates of hearing in his Peshi Register for the cases fixed for the day in question. The Register should then be made over to the Reader of the Court, or in the case of holiday to a selected Reader, who should be made responsible for informing all parties and witnesses of the adjournments given on their coming to attend the closed Court or Courts.

Whenever the Presiding Officer has obtained leave in advance, he should, as soon as possible, fix fresh dates in the cases fixed for the date for which he has obtained leave, and should issue notices to parties, their counsel and witnesses on the dates fixed”.

4. Proceeding of several Judicial Officers on casual leave at a time from a station shall be discouraged.

5. Applications from Senior Civil Judges and Civil Judges-cum-Judicial Magistrates for leave up to 4 days shall be submitted on the enclosed Form ‘A’, to the District Judge who shall send it through Fax to this Court the same day, after endorsing his orders thereon.

6. The casual leave applications in respect of District & Sessions Judges and Additional District & Sessions shall be submitted on the enclosed Form ‘B’ through fax, which shall be faxed back to the concerned District the same day after obtaining the orders of the Leave Sanctioning Authority thereon.

7. In cases, where the leave sought for by Senior Civil Judges and Civil Judges exceeds 4 days, such applications shall be submitted on enclosed Form 'C' and shall be processed by the District & Sessions Judge as per procedure provided for Form 'B'.
8. The District & Sessions Judge concerned shall maintain proper casual leave account of each Officer, to be indicated on each form, submitted for the purpose.
9. The aforementioned forms shall also be used for short leave and permission to leave the station, with the same procedure.
10. Short leave shall not be for more than **two hours** in any case.
11. Forms are also available at [www.peshawarhighcourt.gov.pk/district\\_judiciary.html](http://www.peshawarhighcourt.gov.pk/district_judiciary.html).

# PESHAWAR HIGH COURT, PESHAWAR FORM "A"

Name of Officer

Designation with place of posting

Leave sought for \*

Days for which Leave required  
(for casual Leave only)

No. of days	From	To
<input type="text"/>	<input type="text"/>	<input type="text"/>

Purpose

Signature of the Officer

No. \_\_\_\_\_

Dated \_\_\_\_\_.

Forwarded Please.

**SENIOR CIVIL JUDGE**

## F O R - O F F I C E - U S E

No. \_\_\_\_\_

Dated \_\_\_\_\_.

Leave Account  
(for casual leave only)

Previous Balance	This Leave	Remaining Balance
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Orders of the Leave  
Sanctioning Authority.**

**DISTRICT & SESSIONS JUDGE**

*Casual Leave, Short Leave, Permission to Leave the Station.*



**FORM "B"**

Name of Officer

Designation with place of posting

Leave sought for \*

Days for which Leave required (for casual Leave only)	No. of days	From	To
		<input type="text"/>	<input type="text"/>

Purpose

Signature of the Officer

No.

Dated

Forwarded to Registrar,  
Peshawar High Court, Peshawar.

**DISTRICT & SESSIONS JUDGE**

**F O R - O F F I C E - U S E**

No.

Dated

Leave Account  
(for casual leave only)

Previous Balance	This Leave	Remaining Balance
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Orders of the Leave  
Sanctioning Authority.**

**REGISTRAR,  
Peshawar High Court, Peshawar.**

\* Casual Leave, Short Leave, Permission to Leave the

**PESHAWAR HIGH COURT, PESHAWAR  
FORM "C"**

Name of Officer

Designation with place of posting

	<b>No. of days</b>	<b>From</b>	<b>To</b>
<b>Days for which C/Leave required</b>			

Purpose

Signature of the Officer

No. \_\_\_\_\_

Dated \_\_\_\_\_.

*Forwarded Please.*

**SENIOR CIVIL  
JUDGE**

No. \_\_\_\_\_

Dated \_\_\_\_\_.

**Leave Account**

<i>Previous Balance</i>	<i>This Leave</i>	<i>Remaining Balance</i>

*Forwarded to Registrar,  
Peshawar High Court,  
Peshawar.*

**DISTRICT &  
SESSIONS JUDGE**

**FOR - OFFICE - USE**

No. \_\_\_\_\_

Dated \_\_\_\_\_.

*Orders of the Leave  
Sanctioning Authority.*

**REGISTRAR,  
Peshawar High Court,  
Peshawar.**

C.No. **10**(4-5)

**INSTRUCTIONS REGARDING CASUAL LEAVE BY THE JUDICIAL OFFICERS**

I am directed to refer to the instructions issued vide this Court's letter No. 12258-12281/Admn dated 27<sup>th</sup> October, 2004 and to say that the Competent Authority is pleased to further issue the following instructions, on the subject, for compliance by all concerned: -

1. Casual leave may be clubbed with Sundays falling either at the beginning or at the end of such leave.
2. Practice of mentioning vague sentences and stereotype phrases, as purpose for leave shall be avoided.
3. The forms 'A, B & C' shall be sent to the High Court through fax only. It shall not follow the dispatch of the original form by post.

(PHC letter No. 87-177/Admn Dated 4.1.05)

C.No. **11**(4-5)

**STATION LEAVE / STAY AT THE PLACE OF POSTING**

I am directed to invite your attention to this Court's letters # 9349-9370/Admn dated 10<sup>th</sup> November, 1997 and 10933-11032/Admn dated 23<sup>rd</sup> November, 1999, (copies enclosed) and to say that it has been noticed by His Lordship the Chief Justice with concern that the instructions contained in the letters mentioned above are not complied with by some of the Judicial Officers and they leave their station of posting without obtaining permission.

I am, therefore, to request you to ensure that henceforth no Judicial Officer leaves the station of his posting, even on holiday, without prior permission in this regard.

The above instructions may please be circulated amongst all the Judicial Officer of your District for compliance.

(PHC letter No.9650-9673 /Admn Dated 24-10-2005)

C.No. **12**(4-5)

**CASUAL LEAVE --- CURTAILMENT / CLUBBING TOGETHER WITH HOLIDAYS**

I am directed to refer to the subject noted above and to say that in the recent postings and transfers, most of the Judicial Officers have been posted near their home districts, keeping in view the hardships faced by them while travelling to their home towns in exigencies. Such Judicial Officers are now expected to curtail casual leaves and avoid clubbing these together with holidays, as earlier allowed by this Court, vide letter # 87-117/Admn dated 4<sup>th</sup> January, 2005.

I am, therefore, to request that care may please be taken while sanctioning casual leaves so that these are curtailed and the practice of clubbing of casual leave together with holiday is avoided.

(PHC letter No. 1790-1813/Admn Dated 03.03.2006)

C.No. **13**(4-5)

**CASUAL LEAVE BY THE JUDICIAL OFFICERS**

I am directed to refer to the earlier correspondence of this Court on the subject noted above, and to say that the Hon'ble Chief Justice has seriously viewed prefixing and suffixing of casual leave with public and gazetted holidays, especially Sunday, on vague and stereotype grounds like "**Urgent work**" and "**Domestic problem**".

I am, therefore, to reiterate the earlier instructions of this Court to the effect that the aforesaid practice of clubbing casual leave with Sundays be avoided and the purpose for which the leave is applied for be clearly and vividly mentioned in the application.

I am further to say that repetition of such uncalled-for practice may have serious reflection on the conduct of the Judicial Officers, and can lead to formation of adverse opinion about his overall performance.

(PHC letter No.14842-14872/Admn Dated Peshawar, 22<sup>nd</sup> October, 2008)

C.No. **14**(4-5)

### **LATE SUBMISSION OF APPLICATION FOR EARNED LEAVE**

I am directed to refer to the subject noted above and to say that the Hon'ble Chief Justice has taken serious notice of late submission of applications for earned leave either in the midst of leave applied for, or when the leave has already been availed. This practice clearly militates against service discipline.

It has, therefore, been decided not to entertain applications for earned leave submitted late, unless such applications are received in the High Court well before the commencement date and the concerned officer receives confirmation of sanction of leave from this office, otherwise, leaving the station before sanction is conveyed will be treated absence from duty and dealt with accordingly under the relevant Rules.

(PHC letter No.2338-2361/Admn Dated Peshawar, 28<sup>th</sup> February, 2009)

C.No. **15**(4-5)

### **EARNED / MEDICAL LEAVE**

I am directed to refer to the subject noted above and to say that it has come to notice of this Court that Judicial Officers seek casual leave in the districts while their applications for earned leave/medical leave are under process in this Court for consideration.

I am, therefore, to ask you that sanction of casual leave in similar cases may not be allowed, please.

(PHC letter No.11848-71/Admn Dated Peshawar, 06<sup>th</sup> October, 2009)

C.No. **16**(4-5)

### **CASUAL LEAVE BY JUDICIAL OFFICERS**

I am directed to refer to the subject noted above and to invite the attention of all the judicial officers to the subject rules where under it has been clearly laid down that government servants are not entitled to casual leave as of right. It is entirely within the discretion of the sanctioning authority either to refuse or sanction leave. But the trend of Judicial Officers qua the availing of causal leave speaks otherwise. It appears that Judicial Officers consider the casual leave as their right and not only exhaust the

balance of 25 days of casual leave in a year but also then start availing earned leave in the manner as if they are availing casual leave without relinquishing the charge of their post. The actual legal position is that a civil servant shall have to relinquish the charge while availing the earned leave. (Rule 27 of NWFP Civil Servants Revised Leave Rules, 1981).

It is, therefore, requested to make it sure that the rules on the subject are not only comprehended in true spirit but are also being acted upon. These instructions may be circulated amongst all the Judicial Officer under your control.

(PHC letter No.2122-45/Admn Dated Peshawar, 11<sup>th</sup> February, 2010)

C.No. **17**(4-5)

### **CASUAL LEAVE/EARNED LEAVE**

I am directed to refer to this Court's Circular No. 2122-45 dated 11.02.2010 (copy enclosed), and to say that it has come to the notice of this Court with great concerned that some of the officers/official are applying for earned leave for short spells having sufficient balance of casual leave account. All the officers/officials shall, therefore, resort to earned leave only and only when the limit exceeds the permissible balance of casual leave or there is no casual leave at their credit. Moreover, the officer/officials, availing the earn leave, shall have to relinquish the charge of the post and then the salary of the days he is on earned leave, shall not be paid out of regular head of pay and allowances but out of leave salary account; as after relinquishment of charge of a post the officer/official can no more be considered posted against the post and after expiry of leave he is to report to the authority for further posting unless directed otherwise in advance by the authority.

The above directions be circulated amongst all the officers/officials under your control, for information and strict compliance, please.

(PHC Letter No. 7106-66/Admn: dated Peshawar 09<sup>th</sup> June, 2011)

C.No. **18**(4-5)

### **MEDICAL LEAVE**

I am directed to refer to the subject noted above and to say that it has been noticed by Hon'ble the Chief Justice that the judicial officer while applying for medical leave attach medical certificate issued by unauthorized doctors, henceforth, no application for medical leave shall be entertained without the certificate of civil surgeon/medical superintendent/deputy

superintendent of Govt hospital with full details of treatment and period of rest advised.

The directive may be circulated amongst all the judicial officers under your control.

(PHC Letter No. 336-370/Admn, dated Peshawar the 14-01-2012)

C.No. **19**(4-5)

### **EARNED LEAVE**

I am directed to refer to this Court's letters No. 2338-2361/Admn dated: 28.02.2009 and No.2122-45/Admn dated: 11.02.2010 (Pages 509 & 510 of Judicial Estacode 2011) on the subject noted above and to say that henceforth no judicial officer shall avail earned leave even for a single day without prior approval of the competent authority and without relinquishing the charge of the post. Non-compliance whereof shall expose the concerned to disciplinary action.

These instructions may be circulated amongst all the judicial officers under your control.

(PHC Letter No. 1099-1122/Admn, dated Peshawar the 31-01-2012)

C.No. **20**(4-5)

### **LEAVE AND TRANSIT.**

I am directed to refer to all the previous instructions resting on the subject and to say that the judicial officers, it appears, have either failed to comprehend the overall scheme of the casual leave, earned leave, station leave and availing of transit while on tour or are willfully flouting the same. Some judicial Officers continue availing all the permissible casual leaves as of right before the end of each judicial year; rather they willfully exhaust the balance, if any, without any urgency. They are also in the habit of not only exhausting the balance of casual leave but then start availing earned leave for short period of a day or two like casual leave on the grounds similar to that of casual leaves. The scheme of earned leave is dissimilar to casual leave as the former cannot be availed without prior approval even an urgency, and without relinquishing the charge and not for short period, that is why is called long leave in common parlance. The practice of relinquishing and assuming the charge in case of earned leave has become a routine for them. The instruction on the subject of relinquishing the charge vide this court letter No. 170161-211/Admn dated Peshawar 27<sup>th</sup> December, 2011, are not at all complied with. It should also be born in mind that the matter of relinquishing and assuming the charge on earned leave is not as simple as is thought to be.

The period during which an officer is on earned leave cannot count towards regular monthly pay. During this period the officer shall get pay out of leave salary which is a separate head and which salary is not equal to regular pay but is admissible as per the rules governing the subject. It was in this backdrop that instructions/rules of casual leave were introduced in order to avoid the complications of prior approval, charge relinquishment and leave salary. Had there been no difference between the two, there was no occasion to allow casual leave over and above earned leave. Some of the judicial Officers despite warning of not availing earned leave without prior approval and relinquishing the charge continue to do so. Similarly, despite clear cut instructions vide this court letter No. 16773-96/Admn dated Peshawar 6<sup>th</sup> December, 2010, they continue to avail transit on tours when the distance between place of duty and place of tour is less than 200 K.M, without any cogent reasons. The same is the case of leaving headquarters/station of duty without prior information or permission, as the case may be, of the competent authority.

The Hon'ble Chief Justice has taken serious view of all these practices as these aid to indiscipline and deterioration in institutional output. All the judicial officers are informed that henceforth the violations mentioned above shall be reflected in the PERs of the concerned officers apart from disciplinary action which the competent authority may take against the delinquents including withholding of pay for unauthorized leave, station leave, transit leave etc.

These instructions may be circulated amongst all the judicial officers under your control.

(PHC Letter No. 5688-738/Admn, Dated 17<sup>th</sup> April, 2012)

C.No. 21(4-5)

#### **MEDICAL LEAVE.**

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice has been pleased to direct that henceforth applications for leave on medical ground should be braced by diagnosis/report of medical specialist and endorsed by Medical Superintendent of the concerned hospital; except in case of emergency which would be substantiated at the earliest after submission of application.

(PHC Letter No. 9527-77/Admn, Dated 16<sup>th</sup> July, 2012)



C.No. 22(4-5)

### **LONG, EARNED AND EX-PAKISTAN LEAVE<sup>1</sup>**

Hon'ble the Chief Justice has taken serious notice of the subject leave being granted to the Ex-cadre Judicial Officers without deputing or authorizing other Judicial Officers to deal with the urgent matters pertaining to the Courts of Judicial Officers on leave which cause inconvenience not only to the public litigants but also bring bad name of mismanagement to the parent Institution i.e. the High Court as well.

Hon'ble the Chief Justice has, therefore, been pleased to direct that no leave without the consultation/approval of the Competent Authority (Hon'ble the Chief Justice) through Registrar be granted in future. Any leave granted to the Judicial Officers without approval/consultation of the Competent Authority will be void, having no legal effect and against service discipline.

You are, therefore, requested to direct all the Administrative Secretaries of the respective Courts not to sanction any leave to Ex-cadre Judicial Officers without the approval/consultation of the Competent Authority, referred to above.

(PHC Letter No. 10169-914/Admn Dated 31<sup>st</sup> July, 2012)

C.No. 23(4-5)

### **SHORT LEAVE.**

During the visit of different Courts by a Member of Inspection Team, it was found that Judicial Officers leave short leave applications in advance with the Court staff just to cover their late coming or early leaving. Hon'ble the Chief Justice has taken serious notice of this practice and has been pleased to direct that except in serious emergency, no short leave will be allowed particularly in the morning to any Judicial Officers in future.

I am, therefore, to request for compliance of the above-mentioned directive and also to have a close watch on the staff attendance.

(PHC Letter No. 14860-83/Admn Dated 11<sup>th</sup> December 2012)

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<sup>1</sup> Letter is addressed to Chief Secretary Government of KPK

C.No. **24**(4-5)

**STANDARDIZED POLICY FOR THE GRANT OF EARNED LEAVE  
(EX-PAKISTAN) FOR PERFORMANCE OF UMRA.**

I am directed to say that in view of an increased interest in Umrah by Judicial Officers and staff alike, Hon'ble the Chief Justice is pleased to fix maximum of three weeks leave as a standard policy for the grant of earned leave (Ex-Pakistan).

This may be intimated to the concerned, please.

(PHC Letter No. 636-59/Admn, Dated 24<sup>th</sup> January, 2015)

C.No. **25**(4-5)

**EARNED LEAVE**

I am directed to refer to the subject noted above and to say that it has come to the notice of this Court that judicial officers despite repeated instructions of this Court contained in letters No. 2338-2361/Admn dated: 28.02.2009 (Judicial Esta Code Page 509), No. 2122-45/Admn dated: 11.02.2010 (Judicial Esta Code Page 510), No. 7106-66/Admn dated: 09.06.2011 (copy enclosed), No. 1099-1122/Admn dated: 31.01.2012 (copy enclosed), No. 5688-738/Admn dated: 17.04.2012 (Copy enclosed) are availing earned leave without relinquishment of charge as required under rule 27 of the Khyber Pakhtunkhwa Civil Servants (Revised Leave) Rules, 1981 and without waiting for approval of this Court.

It has also been noticed that judicial officers are still in the habit of submitting earned leave applications lately. The Competent Authority has taken serious notice of all such violations and as a last warning has directed that all the judicial officers shall comply with all such instructions strictly and in future any such violation shall not be tolerated and shall expose the officers to disciplinary action.

These instructions shall be circulated amongst the judicial officers under your control with acknowledgement, duly forwarded to this Court for record.

(PHC Letter No.8186-8220/Admn, Dated 13<sup>th</sup> April, 2019)

C.No. 26(4-5)

**POLICY FOR PERFORMANCE OF UMRAH, HAJJ AND TABLEEGH.**

I am directed to refer to the subject noted above and to say that the competent authority has been pleased to laid down the following policy in relation to leave for performance of Umrah, Hajj and Tableegh, with the directions for its applicability to judicial officers and employees of the district judiciary in the Province with its retrospective effect in case of those officers/officials who have already availed the leave for Hajj, Umrah and Tableegh:-

- i. The Judicial Officer/Official, who intends to perform Hajj shall apply for NOC from their respective appointing authorities at least six months before the anticipated date of Hajj.
- ii. The Judicial Officer/Official, who intends to perform Umrah shall apply for the NOC from their respective appointing authorities at least two months before the anticipated date of Umrah.
- iii. The Judicial Officer/Official once performed Hajj or Umrah shall not ordinarily apply for such leave before expiry of five years.
- iv. Maximum 45 days leave will be allowed to Judicial Officer/Official for performance of Hajj and 21 days for performance of Umrah subject to furnishing of schedule.
- v. The District & Sessions Judge concerned before forwarding the leave application of judicial officer to this Court shall ensure smooth functioning of judicial business at the station.
- vi. Maximum three times Umrah leave is permissible in the whole service and beyond three times the leave will be allowed without pay.
- vii. In entire service only four months leave is allowed for “Tableegh” purpose with full pay. If an officer/official applies beyond four months the leave will be granted without pay.

You are requested to circulate this policy at your end for compliance of all concerned, please.

(PHC Letter No.17501-70/SDJ/HR&W/Admn, Dated 07<sup>th</sup> August, 2019)

C.No. 27(4-5)

### **POLICY FOR UMRAH, HAJJ AND TABLEEGH**

In continuation of this Court letter No. 17501-70/SDJ/HR&W/ Admn, dated: 07.08.2019, I am directed to refer to the subject noted above and to say that the Competent Authority has been pleased to relax the subject policy to the following extent.

“a judicial officers/official who has once performed Hajj shall not ordinarily apply for such leave before expiry of 05 years and one who has performed Umrah shall not ordinarily apply for such leave before expiry of 03 years except in the following circumstances:

- a) Where he/she is the sole person to accompany his/ her ailing or extreme old age parents.
- b) Where a male judicial officer/official is the sole available Mehram of his mother, wife, daughter and dependent sister.

The Policy shall not be applicable to performance of Umrah during summer/winter vacations.

(PHC Letter No.23604-72/SDJ/HR&W/Admn, Dated 17<sup>th</sup> December, 2019)

C.No. 28(4-5)

### **SENIOR CIVIL JUDGES, CIVIL JUDGES AND THEIR ESTABLISHMENT AS A VACATION DEPARTMENT**

#### **LEAVE**

#### **ANNEXURE I.**

**[See Rule 8.60 of Civil Services Rules (Punjab) Volume-I Part-I]**

1. A vacation department is a department, or part of a department, to which regular vacations are allowed during which Government servants serving in the department are permitted to be absent from duty.
2. (i) The following classes of Government servants serve in vacation departments when the conditions of paragraph I above are fulfilled:-  
-

- a. Educational officers, other than the Director of Public instruction and Inspecting officers and their establishments.
  - b. Judicial officers of rank not higher than that of subordinate Judge and their establishments.
  - c. Any other class of Government servant which a competent authority may declare to be so serving.
- (ii) In case of doubt, a competent authority may decide whether or not a particular Government servant is serving in a vacation department.

**Note. 1-** District and Sessions Judges may, with the express permission of the Hon'ble Judges of the High Court, Lahore, avail themselves, without prejudice to their regular leave, of so much of the vacation during the month of September as is not needed for the disposal of Criminal business: provided that suitable arrangements, with the approval of the High Court, can be made for the disposal of work and that the State is not put to any additional expenditure in the way of telegraph, postal or other similar charges. Vacation in their case shall be treated as recognized holidays.

Note. 2- A complete list of Government servants serving in vacation departments is given in Appendix 18.

## **SECTION-VI STANDARD SEALS**

C.No. 1(4-6)

### **USE OF STANDARD SEALS**

I am directed to say that a tendency has been developed among the Judicial Officers for using Courts seals/stamps of their own choice. It results into different types and dimension of seals, which are uncalled for.

2) The relevant law is contained in this regard in section 26 of the West Pakistan Civil Courts Ordinance 1962 as follows.

“26. Every Court shall have and use, as the occasion may arise, a circular seal two inches in diameter bearing round its circumference the title of the Court in English and Urdu script and in the center a device and impression of a crescent moon with the horns pointing upward, surmounted by a star, and the said seal shall be delivered to and kept in the custody of the presiding officer of the Court

3) The seal of the court must, therefore, be in accordance with the standard specification. The improper seals/stamps be collected from all the courts and destroyed forthwith A certificate of having done so, be furnished to this court at an early date. A rough sketch of specimen in enclosed.

(PHC letter No 6181-6202 Admn Brh. Dated Peshawar the 17<sup>th</sup> July 1997)

C.No. 2(4-6)

### **USE OF STANDARD SEALS**

I am directed to invite your attention to this Court's letter No. 6181-6202 Admn: Brh: Dated 17.7.1997 (Copy attached for ready reference) and to say that the directions issued by this Court are not being complied with in letter and spirit.

You are therefore, directed once again to do the needful at an early date and report compliance.

(No. 7404-7553 Dated Peshawar the 3<sup>rd</sup> October, 1998)

C.No. 3(4-6)

**USE OF STANDARD SEAL IN QAZI COURTS AT MALAKAND DIVISION AND KOHISTAN DISTRICT**

In continuation of this Court's letter No. 6181-6202 dated 17.7.1997, I am directed to say that all the Qazi courts in Malakand Division and Kohistan District in Hazara Division shall use official seal as prescribed in Section 26 of the Civil Court's Ordinance, 1962 bearing the title of the Court in circumference in Urdu and English script as Illaqa Qazi, Aala Illaqa Qazi, Izafi Zilla Qazi and Zilla Qazi for use in cases under the Shari Nizam-e-Adl Regulation, 1999.

I am, therefore, to request that the prescribed seal be prepared for use in addition to the already available seals for the aforementioned purpose and certificate for having done so be furnished to this court at an early date

Four specimens are enclosed for further necessary action-  
(PHC letter No. 5688-740 Dated Peshawar the 05th July, 1999)

**SECTION-VII**  
**MAINTENANCE OF RECORD**

C.No. 1(4-7)

**SUBMISSION OF RECORD**

I am directed to say that in Civil Revision Petitions pending in motion before this court, the record as ordered by the Court to be sent for from the subordinate courts are often not received in time despite many letters and reminders. The Civil Revisions Petitions thus lay pending in this Court for long due to the non-availability of the records from the subordinate Courts. Hon'ble the Chief Justice has viewed this situation with concern.

In order to ensure that the records in the Civil Revision Petitions pending before this Court for consideration in motion are received in time and no delay is caused in this behalf, the following procedure has been laid down: -

1. That Civil Revision Petitions, in which this Court has ordered that the records of the subordinate Courts be sent for, be fixed before the Court and should not be kept in motion until the records are received.

2. If a Civil Revision Petition is fixed in motion for a date after a month, the record shall reach this Court within a month and if such revision petition is fixed in motion for a date after 15-days but not beyond a month, the record shall reach this Court within 15-days.

3. If a date has been fixed by the Court in a Civil Revision in motion, the record shall reach this Court in time before that date.

Hon'ble the Chief Justice has further directed that if the records in the above cases are not received within the stipulated period, the concerned official or officials shall appear before this court on the date of hearing in order to explain his/their position for not sending the record within the specified period.

I am to request that the contents of this letter may please be got noted from the staff under your control for strict compliance and an acknowledgement certificate may be furnished to this Court for record.

(PHC letter No. 1-80 / Admn Dated 3<sup>rd</sup>. January, 1988)



C.No. 2(4-7)

**CIRCULAR LETTER – INSTRUCTIONS REGARDING SPEEDY DISPOSAL OF CASES, FILING OF DOCUMENTS ---NON-OBSERVANCE OF HIGH COURT RULES AND ORDERS.**

I am directed to say that during the recent inspection of various Courts, in D.I. Khan Division, by Judge-XI (Mr. Justice Muhammad Bashir Khan Jehangiri) it has been observed: -

- i. That in flagrant violation of Rule 1 of Order XIII C.P.C, the Courts have developed the practice of admitting documentary evidence produced much after striking the issues between the parties. Under the rule *ibid* as amended by this Court, subject to the general provisions of order VII C.P.C., after the settlement of the issues the Court may fix a date not being more than 30 days after such settlement within which the parties may present supplementary lists of documents on which they rely. The bare reading of the Order (as amended) would convey that while permission to file documents other than those required by Order VII is within the discretion of the court, the production thereof has been limited within the stipulated period of 30 days of the settlement of the issues. On the other hand, order VII Rules 14 C.P.C makes it obligatory upon the plaintiff to produce along with the plaint the document(s) upon which he sues and which is / are in his possession while the document upon which he relies as evidence, whether these are or not in his possession, shall be entered in the list annexed to such plaint. Failure to follow this procedure makes the document inadmissible under rule 18 of Order –VII C.P.C.
- ii. That the Courts are least perturbed in granting adjournments in the cases on flimsy and in many cases on no grounds, for instance, that counsel for a party requests for adjournment, without showing any plausible cause, or that counsel for both the parties request for adjournment. Sometimes a case is adjourned because both the counsel for the rival parties agree to the adjournment. This practice of putting the litigants to undue expense and delay must be deprecated because the Courts of law are not under any obligation to please the duly paid representatives of the parties who are supposed to

- advocate the case of the parties whom they represent, and not to add in by asking for adjournment for no valid reason.
- iii. The record of the Courts is not maintained in accordance with the High Court Rules & Orders in that the cases are not indexed in accordance with the instructions contained in Chapter 16-F of the High Court Rules & Orders Vol: IV causing inconvenience to the appellate and revisional Courts. Similarly, the registers are not kept on the prescribed forms. The attention of all the Presiding Officers of the Courts is invited to part A-IV of High Court Rules & Order Vol: VI which provides the forms for various registers in various Courts on Civil side and Part B-IV of High Court Rules & Orders Vol: VI which prescribes the forms for registers in various Criminal Courts. The Presiding Officers are duty bound to see that the files are properly indexed and consigned and that the registers are properly and accurately maintained.
  - iv. It has been generally noticed that a very easy way of getting rid of the old cases is adopted in that through administrative orders such cases are frequently transferred from one Court to the other. This is tantamount to defeating the very object of disposal of old cases on priority basis. It shall be the responsibility of the District Judge to see that no old case is transferred from one Court to the other Court by way of an administrative adjustment.
  - v. The cases are transferred from one Court to the other just on the application of one party on the ground that the court in which the case is pending has no objection to such transfer. Obviously when an application for transfer of a case pending in a particular Court is made the Presiding Officer of that Court would naturally not object to its transfer. It is for the transferring authority to look into the propriety and bonafides of the grounds for transfer and should use the discretion strictly judiciously because discretion is always restricted by judicial conscience and not that where there is a discretion it should be exercised irrespective of realization if it is judicious or arbitrary.
  - vi. The inexperienced and fresh recruits are posted at responsible seats like Court Moharrirs, which mainly accounts for defective maintenance of the record of the Court. It shall be duty of the District & Sessions Judge to see to the worth of the employee proposed to be on such post/ responsible seat. It shall also be ensured that before posting on responsible seat,

the incumbent so proposed is given some sorts of training by attaching him with an experience hand.

I am accordingly directed to impress upon you to strictly follow the above instructions.

(PHC letter No. 2947 – 3034 / Dated Peshawar 2<sup>nd</sup> June, 1990)

C.No. 3(4-7)

### **MAINTENANCE OF JUDICIAL RECORD**

I am directed to convey the following decision taken in the Chief Justice Conference, held in Quetta recently, in regard to the maintenance of Judicial Record of subordinate courts, for strict compliance: -

“It was decided that after decision of a case a responsible official should inspect the file, damaged papers should be repaired and binding of the record should be done. The clerk of court should give the certificate that the record has been prepared in accordance with the rules and is in good condition. This certificate should be counter signed by the Presiding Officer.”

(PHC letter No. 6399-6498/Adm:Brh: Dated Pesh: the 9<sup>th</sup> September, 1991)

C.No. 4(4-7)

### **RECORD OF DECIDED SESSIONS CASES**

I am directed to invite your attention to the High Court Rules and Orders Volume- III Rule 5 Chapter- 25-G providing for the transmission of written copies of the entire proceedings in murder cases (Penalty of death and life imprisonment) in the form of paper book, to the High Court. It is on the receipt of such printing papers that the printing Branch of the High court prepares printing books for further disposal of these matters in the High Court.

It has been noticed that Sessions Courts do not submit clear and legible copies of the required record in time, despite the fact that their attention have been invited to this problem through various letters and circulars issued by this Court from time to time. This in-attention on the part of some of the Sessions Judges have at times occasioned an abnormal delay in the disposal of such matters in the High Court. Normally this is required

to be submitted within fortnight without fail. But instances have been noticed that the record is received in the High Court after 4/5 months of delay.

I am, therefore, directed to request you that such record may in future be submitted well within time. Any inadvertent omission in this respect would seriously be taken note of in the light of the direction of the Hon'ble Chief Justice.

(PHC letter No. 3569-3584 Admn. Brh. Dated Peshawar the 23/5/1993)

C.No. 5(4-7)

### **COPY OF BAIL ORDER**

I am directed to invite your attention to the fact that in bail matters when the Judicial/ Police files are received in this court the same do not contain the copies of orders passed by the Judicial Magistrates/Addl: Sessions Judges.

2) I am, therefore, to direct you to see that in future the requisite copies of the bail orders are invariably attached with the files i.e, police file/ Judicial file.

3) I am to further inform you that any deviation from these instructions will be viewed seriously and the official responsible would be proceeded against in accordance with law.

4) The receipt of this letter be kindly acknowledged at an early date.

(PHC letter No. 1958-1980 Admn. Dated Peshawar the 17<sup>th</sup> March, 1999)

C.No. 6(4-7)

### **CERTIFIED COPIES IN PENDING CASES OF CIVIL JUDGES AND JUDICIAL MAGISTRATES / COPYING AGENCY OF DISTRICT & SESSIONS JUDGE**

Hon'ble the Chief Justice of this Court, in order to facilitate the procurement of the certified copies of Judgment/Orders and decrees etc and to lesson the financial and other difficulties of the litigant public, has been pleased to authorize all the District and Sessions Judges/Zilla Qazis in NWFP to constitute a Copying Agency with the existing staff for issuing certified copies of Judgments/Orders and decrees in all pending cases and of decided

cases pertaining to the Courts of Civil Judges/Judicial Magistrates, till further orders. They are further authorized to constitute such agencies in sub divisional Headquarters for attested copies in pending cases, if so required.

(PHC Endst: No. 10869-10892 / Admn: Dated Peshawar, the 07-9-2004)

C.No. 7(4-7)

**PROPER ARRANGEMENT/PREPARATION OF RECORD OF TRIAL CASES**

It has been noticed in a number of criminal cases, coming up for hearing before this Court, that the files are not properly prepared/arranged in accordance with the provisions of High Court Rules & Orders. This practice, on one hand, amounts to violation of rules and on the other causes inconvenience to the Hon'ble Judges during hearing of the cases. Attention is invited to Chapter 16-A and Chapter 16-F, Vol-IV of the High Court Rules & Orders, requiring the record in criminal cases to be prepared / arranged in two parts with proper paging and indexation.

I am, therefore, directed to ask all the Courts that henceforth record in the subject cases shall be prepared and arranged as per the rules *ibid*, before sending the same to this Court.

The above instructions may please be circulated amongst all the Courts of your District for compliance.

(PHC letter No. 10499-10522/Admn: Dated 29.11.2005)

C.No. 8(4-7)

**SUPPLY OF COPIES FREE OF CHARGE TO THE CENTRAL AND PROVINCIAL GOVERNMENTS.**

It has been brought to the notice of Hon'ble the Chief Justice that some of the copying agencies under your control do not follow the provisions of Chapter I, part 3, Rule 1.7, sub rule ix (2) of the Revenue Circular Punjab No. 45 for the grant of copies of record. The relevant rule is reproduced below for ready reference:

“Copies required for public purposes by Public Officers of the Central or Provincial Governments as defined in section 2(17) of the Code of

Civil Procedure, shall be supplied free of charge on reciprocal basis provided the application for copy is endorsed by the head of the Department concerned". (Copy enclosed).

I am, therefore, directed to ask for following the provision as laid down, please.

(PHC letter No. 3274-3297/Admn: Dated 4<sup>th</sup> April 2006)

C.No. 9(4-7)

**ISSUANCE OF ILLEGIBLE ATTESTED COPIES OF ORDERS AND JUDICIAL RECORD BY COPYING BRANCH OF DISTRICT COURTS.**

I am directed to say that it has come to notice of this Court that instructions issued on the subject by this Court from time to time are not being complied with in letter and spirit. The Copying Branches of various district Courts are issuing illegible attested copies of orders and judicial record which, at times create problems in proper scanning of record by this Court.

I am, therefore, to request to ask the concerned to issue clear and legible attested copies of orders and judicial record in future.

(PHC letter No.2564-87/Admn Dated Peshawar, 03<sup>rd</sup> March, 2010)

C.No. 10(4-7)

**CERTIFIED COPIES IN PENDING CASES AT SUB DIVISIONAL HEADQUARTERS**

I am directed to refer to this Court letter Endst: No. 10869-10892/Admn dated Peshawar, the 07.09.2004 (Judicial Estacode C. No. 6(4-7) (page 349) on the subject and to say that attested copies are to be provided at sub divisional headquarters in pending cases only. Any directive issued by any authority other than High Court in this regard has no legal force.

It may also be added that any circular concerning judicial matters issued by your office to the judicial officers of your district must be got approved by this Court as envisaged in High Court Rules and Orders (Rule 6, Chapter 2 of Volume-IV).

This directive may be circulated amongst all the judicial officers under your control.

(PHC letter No.5388-5447/Admn Dated Peshawar, 25<sup>th</sup> March, 2010)

C.No. **11**(4-7)

### **COPYING BRANCH AT SUB DIVISIONAL HEADQUARTERS**

In supersession of this Court order Endst: No. 7069-73/Admn: Dated 28.06.2002 and letter No. 10869-10892/Admn: dated 07.09.2004 and in view of sub-Rule (2) of Rule 6 of Chapter-I of Revenue Circular No. 45 (for the grant of copies of records), exercising the powers of superintendence and control under Article 203 of the Constitution of the Islamic Republic of Pakistan, Hon'ble the Chief Justice, is pleased to order that henceforth senior most Civil Judge at a station other than district headquarter shall act as Officer In charge of the Copying Agency while Reader of his Court shall act as Copying Agent and Examiner and the Moharrir of his Court as Copyist respectively. The Civil Judge designated as Officer In charge shall act as Head of the Copying Agency while Reader of his Court acting as Copying Agent and Examiner should be responsible for the maintenance of the accounts and the conduct of business to revise and attest copies of records. The Moharrir performing duty of Copyist shall be responsible for the preparation of copies of records.

Hon'ble the Chief Justice has further been pleased to order that applications for certified copies of the records still pending in the Court at Sub-Division and not yet consigned to record Room at District Headquarter, shall be submitted to the designated Copying Agent for providing certified copy of the record applied for to the applicant strictly in accordance with the rules governing supply of copies of records and shall maintain proper accounts under the physical verification of the Officer In charge.

(PHC Endst. No.7270-7293 Dated Peshawar, 21<sup>st</sup> April, 2010)

C.No. **12**(4-7)

### **INSTRUCTIONS FOR COPYING AGENCY**

I am directed to refer to the subject noted above and to enclose instructions in Urdu for affixing the same in some conspicuous place outside the copying branch in large size, preferably in shape of banners, signboards etc, so that the litigant public should know the cost of copies and all illegal, unjustified and exorbitant charging be checked and discouraged. The compliance may be intimated to this court immediately.

### ہدایات برائے شعبہ نقول

- ۱) فوری درکار نقول، درخواست دائر کرنے کے ترجیحاً ایک دن کے اندر یا دوسرے دن فراہم کی جائیں گی۔
- ۲) باقاعدہ نقول درخواست کے تین (3) دن کے اندر فراہم کی جائیں گی۔
- ۳) باقاعدہ نقول کی شرح فیس مبلغ (2) دو روپے فی صفحہ ہوگی۔
- ۴) فوری درکار مصدقہ نقول کی شرح فیس مبلغ (2) دو روپے فی صفحہ بمع (1) ایک روپیہ اضافی فی دستاویز ہوگی۔

### یاددہانی

- ۱) متذکرہ بالا فیس تمام فوجداری مقدمات میں وصول نہیں کی جائیں گی۔
- ۲) ان دیوانی مقدمات میں بھی فیس وصول نہیں کی جائے گی جس میں مالیت مقدمہ بغرض کورٹ فیس مبلغ (25000) پچیس ہزار روپے سے کم ہو۔
- ۳) فیس کی رقم نقد وصول نہیں کی جائے گی بلکہ عدالتی فیس ٹکٹ کی صورت میں باخترسید وصول ہوگی۔

ڈسٹرکٹ اینڈ سیشن جج

(PHC letter No.18800-23/Admn Dated Peshawar, 03<sup>rd</sup> November, 2010)

C.No. 13(4-7)

### UNAUTHORIZED ACCESS TO JUDICIAL RECORD.

It has been noted with great concern that certain official, do not observe the rules & proper procedure, and allow inspection of files and issue copies there from in violation of the rules. It has further been noted that in the garb of clerks of advocates, un-authorized people are not only entertained in the courts/offices but are also allowed access to judicial record. The inspection of judicial record and issuance of copies there-from are regulated by the rules contained in Chapter-5 Volume-V of the High Court Rules and Orders. Similarly, for regulating the conduct of the clerks of the legal practitioners the rules are contained in chapter 6 part (J) Volume-V of the High Court Rules and Orders.

Hon'ble the Chief Justice has therefore been pleased to direct that the rules on the subject noted above be strictly followed and neither any one not authorized under the above rules should be allowed access to the judicial



record nor copies be issued to them. These instructions be brought into the notice of all concerned under your administrative control.

(PHC Letter. 2766-2865/Admn Dated 02<sup>nd</sup> March, 2015)

C.No. **14**(4-7)

### **CONSIGNMENT OF CASES TO THE RECORD ROOM**

It has come into the notice of this Court that despite issuance of directions vide this Court orders dated: 04.09.2004, 10.06.2002 and 13.04.2010, the certified copies of the judgments / orders are not supplied to the litigants/public at Tehsil level.

You are therefore, once again requested that the files of decided cases should remain in the Tehsil for 30 days and during this period copies would be provided to the litigants there.

(PHC Letter No.12563-12613/Admn, Dated 05<sup>th</sup> August, 2017)

C.No. **15**(4-7)

### **ISSUANCE OF CERTIFIED COPIES OF JUDGMENTS AND DECREES**

It has been noticed by this Court that while issuing certified copies of the Judgments and decrees, the copying staff of the District Courts do not enter thereon certain important details like number and date of application, date of preparation, date of delivery of copies and amount of fee, if any paid. This is not only the violation of relevant rules but also becomes impossible for this Court to ascertain whether the appeals/revision filed on the basis of such copies are within time and also to calculate the cost of litigation so as to be entered in the decree sheet.

Please direct all concerned copying staff to properly observe all such legal formalities.

(PHC Letter No.19064-19114/Admn, Dated 23<sup>rd</sup> November, 2017)

C.No. **16**(4-7)

**COMPLAINTS REGARDING NON-PROVISION OF ATTESTED COPIES OF JUDGMENTS AT TEHSIL**

On 8<sup>th</sup> July 2017, President Tehsil Bar Association Booni (Chitral) had raised an issue that attested copies of the judgment may be given at the Tehsil level as the lawyers and litigants get the same from the District Court Record Room. Hon'ble the Chief Justice noted the fact that issuance of certified copies at the Tehsil Headquarter has already been allowed vide letter No. 12563-12613/Admn dated 5<sup>th</sup> August 2017

The above in view, I am directed to convey the dissatisfaction of his lordship over non-compliance. It is further directed to take appropriate measure to ensure strict compliance of the same.

(PHC Letter No. 855-903/Admn Dated 27<sup>th</sup> January, 2018)

C.No. **17**(4-7)

**DIGITIZATION OF OLD AND PENDING CASES IN SESSION DIVISIONS.**

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice has been pleased to approve digitization of old and pending cases in session divisions. However, before embarking on digitization and scanning of cases, classification of documents for record of cases shall be carried out as per Rule-9 to 13 of Part-C, Chapter-5 of High Court Rules & Order (Civil) to avoid unnecessary documentation not required under the rules.

You are, therefore, requested to form a committee of at least three officials who shall carry out classification of record of cases as per rules (copy attached) where-after digitization may be carried out, please.

(PHC Letter No. 4941-65/Admn Dated 04<sup>th</sup> April, 2018)

C.No. **18**(4-7)

**TRANSMISSION OF CASE FILES.**

I am directed to refer to the subject noted above and to say that in order to limit scope for missing of case files, proper mechanism for transmission of case file is to be adopted. Therefore, all case files shall be transmitted to the Court and from the Court upon proper receipt and signature by both the concerned Moharrir and Reader. Reader of the court shall provide cause list to convened branches/ Moharrir one day before the hearing date.

Please direct all concerned officials under your administrative control to comply with the above directions in letter and spirit.

(PHC Letter No. 6003-32/Admn Dated 20<sup>th</sup> April, 2018)

C.No. **19**(4-7)

**RECORD NOTE OF THE MEETING WITH DBA MALAKAND & TBA DARGAI.**

I am directed to say that during the subject meeting, it was pointed out that copies of judgments obtained from the official website of this Court are not ordinarily entertained by the courts as they emphasize on attested copies.

Hon'ble the Chief Justice has been pleased to observe that all the Judicial Officers working under the administrative control of Peshawar High Court are supposed to use the official website of this Court and should continually educate themselves from the judgments available on website. On presentation of downloaded copy of the judgments by the advocates, the same shall be verified by the court concerned from the website of this court instead of demanding certified copies of such judgments and discarding it, if they opt to rely on any such judgment.

You are, therefore, requested to circulate it amongst all the Judicial Officers within the district, for information and compliance, please.

(PHC letter No. 17419-443/Admn: Dated 19<sup>th</sup> October, 2018)

C.No. 20(4-7)

### **SCANNING OF COURT RECORD.**

I am directed to say that in order to facilitate Bench, Bar, Litigants and other stake holders and for generation of data to be employed in the software designed by the MIS Branch of this Court, Hon'ble the Chief Justice has been pleased to direct that henceforth;

- a) All trial/Appellate/Revisional Courts shall on institution and progressively ensure scanning of pleadings/memo of appeal, revision/Judicial Files (criminal cases), supportive documents (Exhibits) etc.
- b) In respect of pending cases, this process of scanning be completed within reasonable time depending on the pendency figures of individual courts.
- c) All courts of first instance on entertaining bail matters ought to scan the Police Investigation Record.
- d) For each case a separate FOLDER, be maintained in the dedicated computer of that court. The scanned documents so generated, order sheets, evidence/statements, statement of accused, orders, judgments etc. be maintained therein and ought not be deleted.
- e) In bail matters or appeal/revision the court of first instance shall on passing of bail order/interlocutory order transmit as soon as possible the soft record so generated to the principal next higher court in hierarchy.
- f) Towards DATA WARE HOUSING, at the District; this data be stored with the court concerned, with the Senior Civil Judge and the District & Sessions Judge concerned so that potential theft/destruction of record generated in soft be averted.
- g) Towards, DATA AUTHENTICATION, all files so generated ought to be in read only protected format with a water mark, "COMPUTER RECORD REQUIRES AUTHENTICATION OF COPYING BRANCH".
- h) In case evidence/order/order sheet is recorded hand written it ought to be scanned.
- i) The District & Sessions Judges shall ensure adequate scanning facilities. In case of scarcity of funds demands be made at the earliest.

Please ensure compliance of the above directions in letter & spirit.

(PHC letter No. 17727-774/Admn: Dated 24<sup>th</sup> October, 2018)  
C.No. **21**(4-7)

### **DIGITIZATION OF CASES/RECORD AT DISTRICTS**

I am directed to refer to the subject noted above and to say that the following plan / timeline and instructions for digitization of record be ensured at Districts.

1. Each district to establish a dedicated scanning branch for digitization of record room with need base Human resource.
2. Scanning branch shall be equipped with heavy duty document scanners, snap scanners, computers, and storage devices for backup of database.
3. A certificate shall be obtained on each file from Moharars at the time of consignment, to ensure classification of cases in Part A and B as per High Court Rules & Orders. In-charge record room shall not receive files unless classification is ensured.
4. District & Session Judges to hold monthly meetings with the Committees constituted for the digitization/destruction of record to maintain a constant check and monitoring of digitization process.
5. Court work is reduced due to COVID - 19, time shall be utilized to the maximum for digitization of record.
6. Process of destruction of record shall be initiated, starting from security proceedings and Bail applications, as per existing mode of destruction provided in the Peshawar High Court Rules & Orders.

#### **MONTHLY TARGETS:**

Following are the zone wise targets for digitization of record/files at record rooms.

<b>S.NO</b>	<b>ZONE</b>	<b>DISTRICTS</b>	<b>TARGETS/PER MONTH</b>
1	A	Peshawar	7500 files/cases
2	B	Swat, Mardan, D.I.Khan, Mansehra, Kohat, Haripur, Bannu, Charsadda, Swabi, Abbottabad, Nowshera	6000 files/cases
3	C	Lakki Marwat, Karak, Buner, Malakand, Dir Lower	4500 files/cases
4	D	Dir Upper, Tank, Hangu, Lower Chitral, Shangla, Batagram, Kohistan Upper	3000 files/cases
5	E	Khyber, Mohmand, Bajaur, Kurram, North Waziristan, Orakzai, South	500 files/cases

		Waziristan, Kolai Palas Kohistan, Kohistan Lower, TorGhar, upper Chitral.	
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### **TIMELINE**

1. The process of procurement of scanners, computers and storage devices shall be completed within 2 months.
2. All Courts to ensure classification of cases in Part A & B as per High Court Rules & Orders with proper indexing at the time of consignment within 30 days and obtain a certificate on each file from Moharar to this effect.
3. Arrange local trainings of the ministerial staff for capacity building on scanning digitization and classification of record within 30 days.
4. Committees constituted for digitization/destruction of record to start the process of destruction of the record which has completed its period of preservation, as per existing mode of destruction provided in the Peshawar High Court Rules & Orders and report within 30 days.
5. Destruction of record of the “Security Proceeding files” & “Bail applications” in record rooms which completed the period of preservation shall be accomplished as per High court Rules & Order within a period of three months.
6. District & Sessions Judges to hold monthly meeting with the Committees constituted for the digitization/destruction of record within a fortnight, minutes of the meeting shall be forwarded along with “Monthly Progress report” of digitization.
7. Process of digitization of all pending cases shall be completed in six months.

(PHC letter No. 04/Records dated Peshawar 03<sup>rd</sup> May, 2021)

**SECTION-VIII**  
**(Destruction of Record)**

C.No. 1(4-8)

**THE DESTRUCTIONS OF USELESS JUDICIAL RECORDS**

These rules made by the Chief Court confirmed by the Local Government and sanctioned by Governor-General of India in Council, under the powers conferred by Section 5 of the Destruction of Records Act, 1879<sup>1</sup>, regulating the destruction of useless judicial records and registers in Courts subordinate to the Chief Court.

**RULES**

A – General

**I. Obsolete Records and Registers to be destroyed annually.**

- All judicial records and registers which by the lapse of a year, have become liable to destruction under the following rules shall be destroyed during the month of September every year.

**II. How to be destroyed and disposed of.** - The destruction of such records and registers shall be carried out under the supervision of a responsible officer not below the rank of *Munsif*, and shall be effected by tearing and soaking in waters, care being taken that all Court-fee stamps have been duly cancelled. The paper shall then be sent to the Superintendent of nearest District Jail, who will purchase it at its market value, and return the bill drawn from the office from which the purchase is made, duly countersigned, for transmission to the Accountant-General. The latter will place the sum to the credit of the Record office Fund (now relevant head) in the public account.

**Note.** —No *Munsif* shall be deputed to supervise the annual destruction of records and registers in a district office, except with the previously obtained sanction of the Chief Court. Such permission must be applied for through the District Judge in sufficient time to allow of orders being passed before the commencement of the September vacation, and the application must explain why an officer of the head-quarters staff cannot be employed on the duty. Such applications will be granted only when it can be shown to the Courts satisfaction that no other suitable officer is available for the duty.

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<sup>1</sup> These rules though framed under Destructions of Record Act, 1879 but shall be deemed to be rules under Destruction of Records Act, 1917 (See Section 4 of the Destruction of Records Act, 1917).

2. It must be remembered that it is of the greatest importance that the work of destruction should be regularly proceeded with in the month of September in each year.

### **B – Records**

**III. Files.**—All civil and criminal records shall be arranged in separate files, A and B.

**IV. Arrangements of civil records.** -- In the case of civil records, File A shall contain the following papers:-

(a) In original cases heard by any Court other than a Court of Small Causes.

- (1) The index of papers.
- (2) The order sheet or chronological abstract of orders.
- (3) The plaint together with any schedule annexed thereto, and all documents, whether original or copies, filed with the plaint.

Note:- In miscellaneous cases the petition or written application of the party setting the Court in motion will take the place of the plaint.

- (4) The written statement and pleading of the parties.
- (5) Application of parties who are strangers to the suit, with the Court's order thereon.
- (6) The memorandum of issues, with amended or additional issues, if any.
- (7) All depositions of witnesses
- (8) All documents received by the Court, during the trial, as evidence between the parties.
- (9) Commissions, proceedings held thereunder, and reports of Commissioners
- (10) Reports furnished by the record departments.
- (11) Applications to refer to arbitration, references to arbitration, the award or other final return of the arbitrators, with the proceedings, depositions and



- documents submitted therewith, and any application to set aside the award, with the Court's orders thereon.
- (12) Deeds of withdrawal, compromise or confession of Judgement.
  - (13) Orders of arrest or attachment before Judgement, with all documents relating thereto.
  - (14) The Judgement or other final order.
  - (15) The decree.
  - (16) All notes in the handwriting of the Judge.
  - (17) Application for review of Judgement with the Court's orders thereon.
  - (18) Judgments and decrees of Appellate Courts, if any.
  - (19) All orders passed in execution proceedings, with all applications, objections, writs of which service has been effected, notices, reports and return relating thereto.
  - (20) All receipts and acknowledgments filed in execution proceedings.
    - (b)\*\*
    - (c) In appeal cases.—
      - (1) The index of papers.
      - (2) The order sheet or chronological abstract of orders.
      - (3) The petition of appeal.
      - (4) Copies of judgments and decrees of lower Courts.
      - (5) Any cross-objection filed by the respondent under "Order XLI, Rule22" of the Code of Civil Procedure.
      - (6) Issues referred for trial by the Appellate Court, with the evidence and findings thereon.
      - (7) Commissioners' proceedings held thereunder, and reports of Commissioners.
      - (8) Any additional evidence, oral or documentary admitted by the Appellate Court under 'Order XLI, Rule27' of the Code of Civil Procedure.
      - (9) Application to the Appellate Court to refer to arbitration, references, the award or other final return of the arbitrators, with the proceedings, depositions and documents submitted

therewith, and any applications to set aside the award, with the Court's orders thereon.

- (10) Deeds of withdrawal, compromise or confession of Judgment.
- (11) The Judgement or other final order.
- (12) The decree of the Appellate Court.
- (13) All notes in the handwriting of the Judge.
- (14) Applications for review of Judgment with the Court's orders thereon.
- (15) Any Judgement and decree of a superior Court of appeal.

File B shall consist of all papers not including in File A:

**V. Arrangements of criminal record.**—In the case of criminal records File A shall contain the papers noted below,--

(a) In original cases tried by a Court of Sessions.

- (1) The index of papers.
- (2) The order sheet or chronological abstract of the orders.
- (3) The charge, original and as amended by the Sessions Judge.
- (4) All depositions of witnesses and statements of accused persons, including depositions and statements transferred from the file of the sending Magistrate.
- (5) All documentary evidence.
- (6) The final order.
- (7) \*\*
- (8) All notes in the handwriting of Judge.
- (9) The Judgement or order of the Appellate Court, if any.
- (10) Any order passed by the High Court as a Court of reference or revision.
- (11) Warrants returned after execution of sentence.
- (12) All proceedings relating to the realization of fines.

(b) In Magisterial inquiries and trials,

- (1) The index of papers.
- (2) The order sheet or chronological abstract of orders.
- (3) The final police report (Challan) or petition of complaint.
- (4) All depositions of witnesses and statements of accused persons.
- (5) All documentary evidence.
- (6) The charge, where a formal charge is drawn up.
- (7) The final order of the Court.
- (8) All notes in the handwriting of the Magistrate.
- (9) \*\*
- (10) The Judgement of the Appellate Court, if any.
- (11) The judgment of the High Court in revision if any.
- (12) Warrants returned after execution of sentence.
- (13) All proceedings relating to the realization of fines.
- (14) Bonds of for good behavior taken under Section 110 of the Codes of Criminal Procedure.

(c) In appeal cases –

- (1) The index of papers.
- (2) The order sheet or chronological abstract of orders.
- (3) The petition of appeal.
- (4) Copy of the judgment of the Lower Court.
- (5) Any additional evidence taken under Section 428 of the Code of Criminal Procedure.
- (6) The final order of the Court.
- (7) All notes in the handwriting of the Judge.

File B shall consist of all papers not included in File A.

**VI. Records to be preserved in perpetuity.**—the following records shall be preserved in perpetuity:-

1. File A of all suits and appeals involving the title to immovable property , as defined in Section 3 clause 25 of the General Clauses Act, 1897\*.

Note: in suits for arrears of rent or for a share in the produce, when the right is not disputed and only the amount contested clause I of Rule X will apply.

2. File A of all suits and appeals relating to the succession to an office or to establish or set aside an adoption, or otherwise the status of an individual and of all suits and appeals relating to trusts or religious endowments.
3. Records of attachment, sale and delivery of immovable property in execution of decree, including all objections, proceedings and orders thereon.
4. File A of proceedings under sections 7 & 8 of Regulation XVII of 1806.
5. File A of proceedings under “the succession Act of 1925 and the repealed Acts entered in Schedule 9 of that Act and of all cases connected with the custody and disposal of intestate property.
6. File A of proceedings under the Divorce Act, IV of 1869.
7. Records relating to the disposal of immovable property forfeited to Government under section 62 of the Pakistan Penal Code.
8. Correspondence with other offices on matters connected with the administration of justice, including annual reports and the statements appended thereto; provided that heads of offices may, with the previous sanction of the District Judge order the destruction after three years, of any correspondence of merely formal or ephemeral character, after personally satisfying themselves, in regards to each paper ordered to be destroyed, that its retention is no longer necessary.

Note: A list of all papers which it is proposed to destroy under this clause must be prepared, and, in the case of subordinate office, be submitted to the District Court for sanction. This list will be preserved in perpetuity.

**VII. Records to be preserved for fifty years.**—the following records shall be preserved for fifty years and shall then be destroyed—

1. \*\*
2. File A of the cases relating to any of the offences specified in Section 44 of the Code of Criminal Procedure as offense of which all persons are bound to give information, in which any of the suspected persons have escaped apprehension, provided that, whenever it is known that the offender or offenders on whose account such records are kept, are dead, the records may be destroyed.
3. File A of criminal cases in which the offence is punishable with death, and it is not known who the offender is.

Note: The records specified in clauses 2 and 3 when the time comes when under ordinary circumstances they would be liable to destruction, shall be removed to a separate bundle of cases of absconding and unknown offenders.

4. File A of Criminal cases in which a lunatic is concerned, unless the lunatic shall have been subsequently tried or have died.

**VIII. Records to be preserved for twenty years.**—The following records shall be preserved for twenty years and shall then be destroyed unless their preservation is necessary on any of the special grounds noted below:-

1. File A of Sessions cases: provided that, if the sentence has not been fully executed, the record shall be preserved until the return of the warrant, and then destroyed.
2. The charge, finding and sentence in cases in which conviction has been had of an offence for which enhanced punishment is provided on a second or subsequent conviction.
3. File A of cases in which any public servant has been tried, whatever may have been the result of the case.

**IX. Records to be preserved for twelve years.**—the following records shall be preserved for twelve years and shall then be destroyed.

1. \*\*

2. Insolvency proceedings under Chapter XX of the Code of Civil Procedure.

**X. Records to be preserved for six years.**—the following record shall be preserved for six years and shall then be destroyed unless their preservation is necessary on any of the special grounds noted below:-

1. File A of the all civil suits and appeals other than suits and appeals falling under Rule VI: provided that, if the decree has not been fully executed or become incapable of further execution, File A must be preserved until such time as the decree has been fully executed or become incapable of further execution.

Note: A note of all cases destroyed in district offices under this clause shall be made at the time of destruction in the list of cases put up with the village bundle.

2. File A of cases tried by the Magistrate \*\* under Section 30 of the Code of Criminal Procedure, in which he has inflicted a heavier punishment than might have been inflicted by a Magistrate of the first class; provided that, if the sentence has not been fully executed, the record shall be preserved until the return of the warrant and then destroyed.

3. Records relating to the realization of fines of Criminal Courts.

**XI. Records to be preserved for three years.**—The following records shall be preserved for three years and shall then be destroyed.

1. File of Criminal cases inquired into or tried by Magistrates and not otherwise provided for in these rules.

2. File A of appeals from orders passed by the Magistrates.

3. All correspondence between the \*\* District Judge and Subordinate Courts, and other records, periodical statements,

reports, proceedings, application & c., not expressly provided for in these rules; provided that, in respect of records falling under this clause, heads of offices must exercise their discretion in preserving report, return and proceedings likely to be useful in the future as containing the result of inquiries or other information, or the opinions of experienced officers on matters connected with the general administration of justice.

**XII. Records to be preserved for one year.**—The following records shall be preserved for one year and shall then be destroyed.

1. File B of all civil and criminal cases and appeals.
2. Proceedings of other Courts and officers forwarding notices, proclamation, calling for records & c.

**XIII. Periods how to be calculated.**— The periods prescribed above shall, except in the cases noted below, be taken to run from the date of the final order of the Court of first instance, or in the event of an appeal, from that of decision of the appeal.

1. \*\*
2. In insolvency proceedings under the ‘Provincial Insolvency Act’, the period shall be taken to run from the order of the Court declaring he insolvent discharged from further liability in respect of his schedule debts.
3. In insolvency proceedings under the Punjab Laws Act, 1872 the period shall be taken to run from the date of the order of discharge.

**XIV. Note of record destroyed to be made.**—A note of every record destroyed under the above rules shall be made at the time of destruction on the register in which the case is entered under the signature of a responsible officer.

**XV. Private documents how to be dealt with.**-- Before destroying File A of the any judicial proceedings, care must be taken to separate and remove from the record all documents belonging to private persons or to Government, as a party to the proceedings, which have not been superseded by the decree of impounded in the case in which they were produced. These documents shall be preserved and tied up in a separate parcel, and notice shall, whenever practicable, be given to the persons who produced them in Court, requiring them to take them back

into their own keeping within six months from the date of the notice and warning them that they will be kept at their risk, and that the Court declines all responsibility for them. Copies of this notice should also be put up in a conspicuous place of the Court-house of the Deputy Commissioner of the district, and of the Court in which the suit was tried, or, if such Court has been abolished, of such other Court or Courts as may be exercising jurisdiction in lieu of it. Heads of offices must make the best arrangements for the custody of these documents that the circumstances admit of. In District offices it will probably be most convenient to keep them with the appropriate village bundles.

### **C. Registers.**

**XVI. Registers to be destroyed after 12 years.**—The following judicial registers shall be preserved for twelve years from the date of the last entry and shall then be destroyed:--

Civil Registers Nos. VI and XIV.  
Criminal Registers Nos. I, III, IV and XVII.

**XVII. Registers to be destroyed after 6 years.**-- The following judicial registers shall be preserved for six years from the date of the last entry and shall then be destroyed.—

Civil Registers Nos. XVI, XVIII, XIX, XXII.  
Criminal Registers No. XVI and XVIII.  
Civil and Criminal Registers C & D.

**XVIII. Registers to be destroyed after 3 years.**-- The following judicial registers shall be preserved for three years from the date of the last entry and shall then be destroyed.—

Civil Registers Nos. VII, VIII, IX, XII, XVII, XXIII, XXIV, XXV.  
Criminal Registers No. V, VI, XIII, XIV, XV, XIX.  
Civil and Criminal Registers E, F, G, H.

**XIX. No other judicial registers to be destroyed.**—No judicial register shall be destroyed except as directed above.



**SECTION-IX**  
**(DISTRICT COMMITTEES)**

C.No. **1**(4-9)

**DISTRICT BENCH-BAR LIAISON COMMITTEE**

I am directed to refer to the subject noted above and to state that the Honorable Chief Justice has been pleased to direct that the subject committee comprising the following members is to be formed and functional, **under intimation to the undersigned**, by 2<sup>nd</sup> week of June, 2002, to hold meetings at least once in three months:

1. One Additional District & Sessions Judge;
  2. Senior Civil Judge;
  3. One Civil Judge;
  4. Three advocates.
2. The committee shall work formally for the achievement of growth and development under the supervision of the Provincial Steering Committee with the following amongst other, objects, to:
- Promote awareness in the litigant public;
  - To observe discipline and decorum in courts;
  - Persuade the lawyers to accept that much cases as they can conveniently handle within a reasonably short period;
  - Advise the lawyers to regularly attend the courts and instruct their clients to avoid dilatory tactics in order to ensure in-expensive and expeditious justice as envisaged by the principles of policy enshrined in Article 37(d) of the constitution;
  - Determine the location of judicial complex to be constructed on the availability of funds;
  - To study the subject of Rule of Law, needs of the Bar and Bench, etc.

(PHC letter No.DR:/( ADMN/HC/43-A-3/2002 Pesh: the 5<sup>TH</sup> June, 2002)

C.No. 2(4-9)

### **DISTRICT BENCH BAR LIAISON COMMITTEE**

I am directed to refer to the subject noted above and to state that Hon'ble Chief Justice of this Court has been pleased to direct in partial modification of this Court's letter No. **D.R/(ADMN)/HC/43-A-3/2002** dated **5<sup>th</sup> June, 2002**, that the subject Committees be re-constituted in the following manner:

- |    |   |          |
|----|---|----------|
| 1. | District & Sessions Judge                   | Chairman |
| 2. | One Addl: District & Sessions Judge         | Member   |
| 3. | Senior Civil Judge                          | Member   |
| 4. | One Civil Judge cum Judicial Magistrate     | Member   |
| 5. | President, District Bar Association         | Member   |
| 6. | General Secretary, District Bar Association | Member   |
| 7. | President, Sub-Divisional Bar Association   | Member   |

The committee shall work for the achievement of the following objectives under the supervision of this Court:

1. to promote awareness in litigant public;
2. to promote observance of discipline and decorum in Court;
3. to persuade Lawyers to accept that much cases as they can conveniently handle within a reasonably short period.
4. to advise the Lawyers to regularly attend the courts and instruct their clients to avoid dilatory tactics in order to ensure inexpensive and expeditious justice as envisaged by the principles of policy enshrined in Article 37 (d) of the Constitution;
5. to promote the study of the subject of law; and
6. to further the cause of creation of healthy and friendly working relation between Bench and Bar.

The committee shall meet at least once in three months.

(PHC letter No AJP/HC/43-A-3/2003/D-1 dated 18-8-2004)

C.No. 3(4-9)

**DISTRICT BENCH BAR LIAISON COMMITTEE**

In partial modification of this Court's letter No. AJP/HC/43-A-3/2003/D-1 dated: 18<sup>th</sup> August 2004, the District Bench Bar Liaison Committee is reconstituted as under:-

- |  |          |
|--|----------|
| 1. District & Sessions Judge                   | Chairman |
| 2. One Addl: District & Sessions Judge         | Member   |
| 3. Senior Civil Judge                          | Member   |
| 4. One Civil Judge cum Judicial Magistrate     | Member   |
| 5. Member Provincial Bar Council               | Member   |
| 6. President, District Bar Association         | Member   |
| 7. General Secretary, District Bar Association | Member   |
| 8. President, Sub-Division Bar Association     | Member   |

The Committee shall work for the achievement of the following objectives under the supervision of this Court.

1. To promote awareness in litigant public;
2. To promote observance of discipline and decorum in Court;
3. To persuade lawyers to accept cases as they can conveniently handle within a reasonable short period;
4. To advise the lawyers to regularly attend the courts and instruct their clients to avoid delaying tactics in order to ensure inexpensive and expeditious justice as envisaged by the principles of policy enshrined in Article 37(d) of the Constitution;
5. To promote the study of the subject of law; and
6. To further the cause of creation of healthy and friendly working relation between Bench and Bar.

The Committee shall meet at least once in three months

(PHC Letter No. 5595-5619/Admn, Dated 29<sup>th</sup> March, 2017)

C.No. 4(4-9)

**DISTRICT JUDICIARY PERFORMANCE MONITORING AND EVALUATION POLICY (2020-2025) (MONTHLY MEETING OF BENCH BAR LIAISON COMMITTEE)**

In pursuance of para-8 (page-28) of the subject policy and in supersession of earlier directives in this regard, the Competent Authority has been pleased to direct that henceforth the meetings of Bench Bar Liaison Committee shall be convened on monthly basis.

(PHC letter No.19484-518/Admn dated Pesh 09<sup>th</sup> November 2020)

C.No. 5(4-9)

### **CITIZENS COURTS LIAISON COMMITTEE**

I am directed to refer to the letter No. F 2 (12)/2002-AJP. Government of Pakistan Ministry of Law, Justice and Human Rights (Project Management Unit) Islamabad, the 27<sup>th</sup> June, 2002 on the subject noted above and to state that as a means of establishing an institutionalized interface between the citizens and the formal judicial systems, it is proposed to create Citizen – Courts Liaison Committee (CCLC) at each district headquarter. This institutional mechanism is designed to facilitate the public in accessing the judicial system in a friendly and service-oriented environment.

2. The Hon'ble Chief Justice has, therefore, been pleased to direct that District & Sessions Judge is to be the Chairperson of the Committee at the District level and also the appointing authority of its non-official members. You are, therefore, required to constitute the subject committee, comprising of the following members, under intimation to this office.

1.	District and Sessions Judge	Chairperson
2.	President, District Bar Association	Member
3.	Speaker Zilla Assembly / Naib Nazim	Member
4.	EDO (Law)	Member
5.	Zilla Mohtasib	Member
6.	Representative of women community	Member
7.	Community Liaison Facilitator.	Secretary

The tenure of office of non-official member of the committee may be fixed at two years.

To be appointed by the District and Sessions Judge from a panel of three lady councilors to be submitted by the office of the Zilla Nazim.

3. The following core functions are entrusted to district CCLC:

- To setup and maintain an Information Kiosk in district court premises for the guidance of the public regarding all matters pertaining to different courts;
- To promote legal literacy;
- To guide people regarding dispute prevention measures, alternate dispute resolution (ADR) and other such like avenues;
- To register, report and address citizen's grievances regarding the functioning of the judicial system in the District;
- To provide a channel for the citizens and other stakeholders to send suggestions for reform and improvement:  
Provision of specific legal advice to litigants will not be the functional responsibility of the District CCLC.

4. The Committee would, however, **be made functional only on the availability of infrastructure** (for staff SNE has been submitted to the Finance Department and for accommodation Works and Services Department has been asked to prepare Umbrella (PC-I for the same) so that the desired results may be achieved.

(PHC letter No. DR: (ADMN/HC/43-A-3/2002 Pesh: the 20<sup>TH</sup> Sep: 2002)

C.No. 6(4-9)

### **CRIMINAL JUSTICE COORDINATION COMMITTEE**

#### **RELEVANT PROVISIONS OF KHYBER PAKHTUNKHWA POLICE ACT, 2017**

**74 Establishment of Criminal Justice Coordination Committee and its composition** - (1) There shall be a Criminal Justice Coordination Committee in each District of the Province.

(2) The Criminal Justice Coordination Committee shall consist of-

- (a) District and Sessions Judge (Chairperson)
- (b) Head of District Police
- (c) District Public Prosecutor
- (d) District Superintendent Jail
- (e) District Probation Officer
- (f) District Parole Officer
- (g) Head of Investigation (Secretary)

**75. Functions of the Criminal Justice Coordination Committee.**-(1) The Criminal Justice Coordination Committee shall-

- (a) keep under review the operation of the criminal justice system and work towards the improvement of the system as a whole;
- (b) promote understanding, co-operation and coordination in the administration of the criminal justice system;
- (c) exchange information and give advance notice of local developments, which may affect other parts of the system ;
- (d) formulate coordinated priorities and plans to give effect to locally agreed policies;
- (e) raise relevant issues with the appropriate authorities;
- (f) promote the spread of good practices; and
- (g) review the implementation of any decisions taken by the Criminal Justice Coordination Committee..

**76. Meetings of the Committee** The meeting of the Criminal Justice coordination Committee shall be held at least once a month. The secretary of the committee shall record the minutes of the meetings.

C.No. 7(4-9)

**CRIMINAL JUSTICE COORDINATION COMMITTEE MEETINGS.**

With reference to the subject noted above, I am directed to ask you to invite the Executive Magistrates to the Criminal Justice Coordination Committee meetings, please.

(Letter. 2734-57/Admn, Dated 02<sup>nd</sup> March, 2015)

C.No. 8(4-9)

**CONSTITUTION OF DISTRICT LEGAL EMPOWERMENT COMMITTEE FOR AJDF**

GOVERNMENT OF PAKISTAN  
LAW & JUSTICE COMMISSION OF PAKISTAN

**NOTIFICATION**

*Dated Islamabad the 12<sup>th</sup> May, 2009*

**File No. 14(198)/05/LJCP-A1-Peshawar:-**

Pursuant to clause (b) of Rule 10 of the Access to Justice Development Rules 2002, the Law and Justice Commission of Pakistan with concurrence of the Peshawar High Court, Peshawar and the Government of NWFP has been pleased to constitute the District Legal Empowerment Committee each for the following selected Districts.

**Name of the District**

- i. Lower Dir.
- ii. Haripur.
- iii. Charsadda.
- iv. Bannu

2. District and Session Judge shall be the head of the District Legal Empowerment Committee, comprising with the following members.

- i. President, District Bar Association.
- ii. Superintendent, District Jail.
- iii. One Representative of the Civil Society to be co-opted by the Committee.

3. Each Committee shall open separate account in the National Bank of Pakistan to be managed and operated by its head.

4. The funds shall be utilized by the committee for the purpose of legal aid as per criteria laid down by the Government Body of the AJDF.

C.No. 9(4-9)

**DISTRICT LEGAL EMPOWERMENT COMMITTEE  
(CONSTITUTION & FUNCTIONS) RULES, 2011**

GOVERNMENT OF PAKISTAN  
LAW AND JUSTICE COMMISSION OF PAKISTAN

**NOTIFICATION**

*Islamabad, the 2<sup>nd</sup> July, 2011*

S.R.O 684 (I)/2011.- In exercise of powers conferred by sub-section (1) of section 9 of the Law & Justice Commission of Pakistan Ordinance (XIV of 1979), the Law & Justice Commission of Pakistan is pleased to make the following rules for constitution and regulating the functions of the District Legal Empowerment Committees.

1. **Short title and commencement.** – (i) These Rules may be called the District Legal Empowerment Committee (Constitution & Functions) Rules, 2011.

(ii) They shall come into force at once.

2. **Definitions.-** In these rules, unless there is anything repugnant in the subject or context, -

- (a) **“Chairperson”** means Chairperson of the District Legal Empowerment Committee;
- (b) **“Committee”** means the District Legal Empowerment Committee constituted to administer and manage funds for the purpose of provision of legal aid to the deserving litigants;
- (c) **“Deserving Litigant”** means a litigant who might otherwise be unable to obtain legal aid or assistance for protecting his genuine legal rights or interests, involved in litigation, on account of his limited financial resources.
- (d) **“District Legal” Empowerment Fund”** means an amount allocated for District Legal Empowerment Committee from the Legal Empowerment Fund Window of Access to Justice Development Fund or other grants or donations made by the Federal Government, Provincial Government or a Local Government.
- (e) **“Legal aid”** means free legal aid or assistance extended to a deserving litigant by the Committee in areas hereinafter prescribed:
- (f) **“Member”** means member of the District Legal Empowerment Committee;

3. **Establishment of the Committee.-** The Committee shall be constituted by the Law and Justice Commission of Pakistan with the concurrence of the concerned High Court and the Provincial Government.

4. **Composition of Committee.** – (i) The composition of the Committee shall be as under:-

- (a) District & Sessions Judge / Zilla Qazi as *ex-Officio* chairperson;
- (b) District Co-ordination Officer / Deputy Commissioner / Political Agent, member *ex-officio*.
- (c) Superintendent, District / Central Jail, member *ex-*



*officio;*

- (d) President, District Bar Association, member *ex-officio*; and
- (e) A Representative of the Civil Society as co-opted member of the Committee.

(ii) The co-opted member shall be selected by the Committee, for a period of three years but shall be eligible for re-appointment for another term.

(iii) The co-opted member shall hold the office during the pleasure of the Committee and can be removed earlier by majority of its members.

(iv) The co-opted member may resign from his office by writing under his hand addressed to the Chairperson.

(v) The Committee may designate any of its members as Secretary to the Committee who shall act and perform such functions as may be assigned to him by the Committee.

**5. Functions of the Committee.**- (i) Subject to the provisions of any other law for the time being in force, the Committee shall extent funds for provision of legal aid to the deserving litigants.

(ii) Without prejudice to the generality of the provisions of sub-rule (i) of the Rule 4, the legal aid may be extended in following areas:-

- (a) Professional fee / honorarium payable to lawyer;
- (b) Court fee;
- (c) Copying charges;
- (d) Process fee; and
- (e) Any other area which the Committee may deem appropriate in a particular case, for extending legal aid to the deserving litigant.

**6. Meetings of the Committee.** – (i) The Committee shall hold its meeting at least once in a month to consider applications of the deserving litigants for grant of legal aid for pursuing their cases in the Courts, however, it may hold special meetings in view of any such application warranting urgent disposal.

- (ii) Presence of 50% members including chairperson shall

constitute the quorum for a meeting.

(iii) All decisions of the Committee shall be expressed in terms of opinion of the majority of its members.

(iv) The Committee shall report its performance together with its recommendations, if any, to the Commission through High Court, within seven days of each meeting.

**7. Procedure for Grant of Legal Aid.** – (i) Any deserving litigant shall submit requests in writing on a plain paper addressed to the Chairperson or in a manner prescribed by the Committee. The application must clearly contain the request for payment as prescribed by Rule 5 (ii) to plead his case before the Court. The applications must be accompanied by National Identity Card or any other document of identity.

(ii) The Superintendent District Jail may also forward applications of the under trial or convicted prisoners, or any person confined in jail in relation to civil proceedings after necessary verification that the applicant is a deserving litigant.

(iii) The Committee may also consider cases referred by any Court for provision of legal aid to the person whose case is pending before such Court.

(iv) Office of the Chairperson shall register the applications in the relevant register with brief particulars and by assigning Diary No. The applications so registered shall be placed before the Chairperson who if thinks appropriate may refer the same to any other person for verification and report qua financial position of the applicant.

(v) The application shall be examined by the Committee in its monthly or special meeting, as the case may be, which shall determine the eligibility or otherwise of applicant for grant of legal aid, the manner, nature and extent of such aid: Provided that a person shall not be entitled to legal aid, for whom an advocate or public prosecutor or government pleader has already been appointed in the same case, under any other law for the time being in force.

(vi) The decision of the Committee shall be final; however, this shall not debar the applicant litigant to apply again after furnishing sufficient proof that his financial condition has been

weakened to bear the expenses of litigation.

**8. Selection of Legal Practitioner.** – (i) The Committee in consultation with *Vice* Chairman, Provincial Bar Council, President, District Bar Association and approval of the Chief Justice of High Court shall maintain a list of legal practitioners to be appointed for the purpose.

(ii) A legal practitioner having at least five years standing at the Bar would be eligible for appointment.

(iii) The Committee shall determine the fee of the legal practitioner and it may vary from case to case however, it shall not be more than Rs.20,000/- in any circumstances for a case.

(iv) If the Committee is satisfied that performance of the lawyer appointed for the purpose is not satisfactory, may substitute him with another lawyer and delete his name from the list.

(v) The Committee shall examine the performance of each legal practitioner on annual basis and may amend the list on the basis of their efficiency and output.

**9. Management and Accounts of the Fund .** – (i) The District Legal Empowerment Fund shall be operated through an account to be opened in a branch of an authorized bank, which shall be operated by the Chairperson.

(ii) The Accountant of the District Court shall maintain all records of the District Legal Empowerment Fund including books of account, cash book, ledgers, cheques and other record.

(iii) The Accountant shall submit the accounts of the District Legal Empowerment Fund in the manner and form specified by the Committee and shall lay a statement of funds transferred from the Law and Justice Commission of Pakistan and or any other source and also maintain statements of expenditures and releases.

(iv) The Committee shall submit half yearly and annual audited accounts of the District Legal Empowerment Fund to the Commission through High Court.

(v) All payments shall be made through cross cheques under the signature of the Chairperson subject to decision of the Committee.

(vi) The Committee shall release funds in favor of legal practitioner in two installments; first installment shall be paid at the

time of assigning the case while the final installment shall be paid after verification of the fate of the case.

(vii) The Committee after receiving copy of final order with regard to the case assigned to a legal advisor may also call report from the concerned Court for the purpose of verification of disposal of the case.

(viii) The internal audit of the District Legal Empowerment Fund shall be conducted annually in accordance with the relevant laws, rules or bylaws of the Provincial Government.

(ix) The internal audit report shall be communicated to the Commission through High Court.

10. **Relaxation of Rules.** – The Chairperson may, for the reasons to be recorded in writing relax strict application of any rule in appropriate cases.

11. **Interpretation of Rules.** – Any question relating to the interpretation of these rules shall be decided by the Chairperson

C.No. 10(4-9)

## ENDOWMENT FUND RULES

### GOVERNMENT OF PAKISTAN MINISTRY OF HUMAN RIGHTS

#### NOTIFICATION

Islamabad the 04<sup>th</sup> April, 2017.

**F.No.11-5/2015-16/F&A:** In pursuance of the approval of the Action plan to improve Human Rights Situation in Pakistan by the Honorable Prime Minister of Pakistan on 13<sup>th</sup> February 2016, the Ministry of Human Rights has laid the Endowment Fund Rules for non-lapsable Endowment Fund of the Ministry of Human Rights established to extent legal aid to the poor victims of human rights violations. The fund rules are notified as under:

- (1) **Purpose and Objectives of Fund:** The purpose of the fund shall be to provide free legal aid to the poor victims of human rights violations.
- (2) **Source of Fund:** Federal Government Grants and receipts are the major source of fund. Savings accrued from the investment of the fund can also be the source of the fund.

- (3) **Budget Process:** Government Grants would be provided as usual budgetary mechanism.
- (4) **Eligibility for the Fund:** (1) The poor victims of human rights violations including orphans, widows, divorced women, person with disability, destitute, members of minority community shall be eligible for grant of fund.
- (ii) The areas of preferences for grant of legal aid shall include child custody, inheritance/property rights, maintenance, divorce/khulla, sexual offences and offences against body.
- (5) **Recommendation for Legal Aid:** The case for the grant of legal aid shall be recommended by a Legal Aid Committee (hereafter referred as committee).
- (6) **Composition of Committee:** The composition of the committee shall be as under:
- i. District & Sessions Judge as ex-officio Chairperson;
  - ii. District Co-ordination Officer/Deputy Commissioner/Political Agent, Member ex-officio;
  - iii. President, District Bar Association, Member ex-officio;
  - iv. Representative of the Civil Society, Member co-opted by the Committee;
  - v. District Officers (Social Welfare)/Social Welfare Officer, Member/ Secretary to the Committee.
- (7) **Items to be covered for Legal Aid:** The committee shall recommend the legal aid to the deserving litigants for the following items:
- (1) Professional fee/honorarium payable to lawyers;
  - (2) Court fee;
  - (3) Copying charges;
  - (4) Process fee and expenditure;
  - (5) Any other item which the committee may deem appropriate in a particular case.
- (8) **Meetings of the Legal Aid Committee:** (i) The Committee shall hold its meeting at least once a month to consider application of the deserving person for grant of legal aid in order to pursue their cases in the Courts; however, it may hold special meetings in view of any such application warranting urgent disposal.

- (ii) Presence of three members including District and Session Judge and DCO/DC shall constitute the quorum for a meeting.
  - (iii) All decision of the committee shall be with consensus.
- (9) **Procedure for Grant of Legal Aid:**
- (i) A deserving applicant shall submit request on the prescribed form as Annex-A. The applications must be accompanied by National Identity Card or any other documents of identity.
  - (ii) The Superintendent Jail may also forward applications of the under trial or convicted prisoners, or any person confined in jail after necessary verification that the applicant is a deserving litigant.
  - (iii) The committee may also consider cases referred by any Court for provision of legal aid to the person whose case is pending before such Court.
  - (iv) The Secretary of the committee shall register the applications in the relevant register with brief particulars and by assigning Diary number. The registered applications shall be placed before the committee during the next meeting and the committee if thinks appropriate may refer the same to any other person for verification.
  - (v) The application shall be examined by the Committee in its monthly or special meeting, as the case may be, which shall determine the eligibility or otherwise of applicant for grant of legal aid.
  - (vi) A person shall not be entitled to legal aid for whom an advocate or public prosecutor or government pleader has already been appointed in the same case, under any other law for the time in force.
  - (vii) The decision of the Committee shall be final; however, this shall not debar the applicant litigant to apply again after furnishing sufficient proof that his financial condition has been weakened and is unable to bear the expenses of litigation.
  - (viii) The secretary of the committee shall forward the recommendation to the Regional Director (Human Rights) who shall process the case within one week.
- (10) Selection of Legal Practitioner;
- (i) The Committee shall select a lawyer to be appointed for purpose.
  - (ii) A legal practitioner having at least five years standing at the Bar would be eligible for appointment.

(iii) The Committee shall determine fee /honorarium etc. of the legal practitioner and it may vary from case to case however, it shall not be more than Rs.20,000/- (Twenty thousand) in any circumstances for a case.

(11) **Management of the Fund:** (i) The fund shall be divided amongst federal and provinces as under:

(1) Punjab	40%
(2) Sindh	25%
(3) Baluchistan	10%
(4) KP	15%
(5) ICT	10%

(ii) The Endowment Fund shall be operated through a Bank Account to be opened with bank having 'A' (long term) rating as appearing on the website of State Bank of Pakistan (preferably at National Bank of Pakistan) with the approval of Finance Division. The said account shall be operated by the Regional Directors and Ministry of Human Rights, Government of Pakistan.

(iii) The Drawing and Disbursing Officer of the Regional Office (Human Rights) shall maintain all records of the Endowment Fund including books of account, cash book, ledgers, cheques and other record.

(iv) The payment shall be made directly to the legal practitioner through the cheque.

(v) The Regional Director shall send quarterly progress report to the Ministry of Human Rights.

(vi) To the extent of ICT, the Fund will be operated by Director (HR) Ministry of Human Rights, Islamabad.

(12) **Maintenance of Cash Book:** Cash book will be maintained as per requirements under the government rules.

(13) **Investment Committee:** (i) There would also be an investment committee for the fund to collect proposal, from the financial institutions for investment of the principal and surplus amount and to prepare its investment plan in the light of the Government/Finance Division's instructions issued from time to time.

(ii) The Composition of the Committee will be as under:

a) Secretary, Ministry of Human Rights Chairman

- |  |             |
|--|-------------|
| b) Joint Secretary, Ministry of Human Rights   | Member      |
| c) Financial Advisor, Ministry of Human Rights | Member      |
| d) Director, Board of Investment (BOI)         | Member      |
| e) Representative of the Finance Division      | Member      |
| f) Director General (Human Rights)             | Member      |
|  | + Secretary |

(iii) **Quorum:** Minimum Four Members must be present to conduct the business of the meeting.

(iv) The investment will be made in the Federal Government approved securities.

- (14) Reconciliation with Banks, AGPR, AG and DAO(s): Bank/Fund reconciliations would be made on monthly basis.
- (15) **Financial Management/ Administration / Functions and powers:** Secretary Ministry of Human Rights being PAO may use or delegate the powers as per Government rules, procedures instructions etc.
- (16) **Observations of Rules and Record Keeping:** Federal Government rules as prescribed in General Financial Rules, Federal Treasury Rules and Accounting Policies Procedure Manual etc would be observed and record shall be maintained accordingly.
- (17) **Audit Management:** Internal Audit would be conducted by the Ministry and external Audit by Auditor General of Pakistan.

2. These rules are issued with the approval of Finance Division (Budget Wing) conveyed vide letter No. 3(4)BR-II-2009-91/17 dated 10<sup>th</sup> February 2017.

Annex-A

APPLICATION FOR FREE LEGAL AID  
UNDER

“THE ENDOWMENT FUND FOR EXTENDING LEGAL AID TO THE  
POOR VICTIMS OF HUMAN RIGHTS VIOLATIONS”

The District and Sessions Judge  
Chairman,  
Endowment Fund Committee for Free Legal Aid,  
District .....

Subject: Provision of Free Legal Aid.

Dear Sir,



I, being very poor, hereby apply for free aid under the “Endowment Fund for extending legal aid to the poor victims of human rights violations established by the Ministry of Human Rights, Government of Pakistan to pursue my case to be instituted/filed/pending in the \_\_\_\_\_ court.

A. My person bio-data is given below:

- (1) Name : \_\_\_\_\_
- (2) Father’s Name \_\_\_\_\_
- (3) I.D Card \_\_\_\_\_
- (4) Source of earning Livelihood \_\_\_\_\_
- (5) Monthly income from all sources \_\_\_\_\_
- (6) Whether the applicant possesses any moveable/immoveable and /or other property /assets, if yes, the particulars and details there of \_\_\_\_\_
- (7) If the applicant possesses any property/assets, the reason of seeking, free legal \_\_\_\_\_
- (8) Whether the applicant is liable to pay Wealth Tax/Income tax \_\_\_\_\_

B. The details of the case / suit are as under :-

- (a) Name of the plaintiff/complainant/defendant/accused \_\_\_\_\_
- (b) Court where case/suit is pending / to be filed \_\_\_\_\_
- (c) Nature of case/suit \_\_\_\_\_
- (d) Claim of suit /offences of the case \_\_\_\_\_

C. Copies of the relevant documents/orders/judgments as detailed below are enclosed.

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

I hereby state on solemn affirmation that the contents of my application are true and correct. If any of the above mentioned particulars/facts are found incorrect or false, I shall be liable to pay to the Government all the expenses incurred by it for providing me the free legal aid.

Signature of the applicant/deponent \_\_\_\_\_

Full Address \_\_\_\_\_

Contact No. \_\_\_\_\_

C.No. **11**(4-9)

### **MONTHLY MEETING OF JUDICIAL OFFICERS**

I am directed to circulate the following directive of Hon'ble the Chief Justice for strict compliance.

“The District & Sessions Judges are required to convene meeting of all the Judicial Officers of the District at least once a month, preferably before the meetings of District Criminal Justice Co-ordination Committee and Bench Bar Liaison Committee, so as to develop interaction and discuss local issues concerning Courts”.

Copy of the minutes of such meetings be regularly sent to this office.

(PHC letter No.AJP/HC/43-A-37/2004 Peshawar, the 21<sup>st</sup> April, 2004)

C.No. **12**(4-9)

### **AGENDA OF MONTHLY MEETING OF JUDICIAL OFFICERS**

I am directed to refer to earlier directive of this Court vide letter No. AJP/HC/43-A-37/2007 dated: 21.04.2004 on the subject noted above and to say that in order to build capacity of judicial officers, ensure professional excellence, uniformity in discretionary matters, overcome stage fright, promote cordial relationship with bar and bench and with the aim to restore public confidence, the competent authority has been pleased to direct that henceforth monthly meetings of judicial officers shall be divided into the following four (04) segment:

1. Performance evaluation
2. Administration
3. Academics
4. Research paper

With regard to segment No. 3 and 4, learned the District & Sessions Judges shall highlight the legal issues affecting administration of justice in the respective District. such issues may vary from station to station, however, generally include suit evaluation and court fee, case management, summary adjudications, judicial deposits, maintenance of record, decree sheets, uniformity and consistency in exercise of discretion, executions, bails etc.

The chair may assign different topics to judicial officers for preparation, presentation as well as writing of research papers. The presentation and papers, so submitted, shall be circulated amongst all the judicial officers at the station, who in return shall formulate at least five (5) critical questions for discussion in the meetings on the topics.

The presentation and research papers along with questions of each judicial officer shall be recorded and their copy shall be sent to this Court along with minutes of the meeting. Likewise, a copy shall also be sent to Khyber Pakhtunkhwa Judicial Academy for research analysis.

The District & Sessions Judge concerned may also consider holding study circles/workshop in the said judicial officer's meeting for academic part and adopt the same procedure as mentioned above.

(PHC Letter No.SDJ/PHC/REG/26-V.II-(1-34)/5488-5521 Dated: 07<sup>th</sup> October 2019)

**SECTION-X  
ADVOCATES**

C.No. 1(4-10)

**FEE CERTIFICATE**

It has come to the notice of the learned Judges that the fee certificates filed by the counsel in civil appeals, civil revisions and writ petitions etc, are not on the form prescribed by Rules 17 & 18, Chapter 6-1, High Court Rules and orders, Vol. V, which form is given in Rule 18 of the same book, and as such, these certificates do not fulfill the requirement of the rules. The learned Judges have, therefore, been pleased to order that if the fee certificates filed by the counsel in future are not on the prescribed form, they will not be allowed any counsel fee.

Copy of the prescribed form is attached for ready reference.

(PHC letter No.4450-56 / Judl: Dated Peshawar the 06<sup>th</sup> May, 1969)

C.No. 2(4-10)

**SECTION OF LAW TO BE GIVEN**

Honorable the Chief Justice Peshawar High Court, Peshawar, has been pleased to Order that in the future all the advocates should invariably give the sections of Law under which relief is sought in the heading of the applications for bail OR cancellation thereof which are to be filed by the learned counsel on behalf of their clients in Courts.

(PHC letter End: # 13457-506/Admn: Brh: Dated Pesh: the 16<sup>th</sup> Dec: 1982)

C.No. 3(4-10)

**ENGAGEMENT OF JUNIOR ADVOCATES**

I am directed to address you on the subject and to say that Hon'ble the Chief Justice of this Court has been pleased to direct that all Senior Advocates engaged for conducting murder cases/appeals etc shall also engage one or two junior Advocates for their assistance. Similarly junior Advocates shall also be engaged by the Senior Advocates in important civil suits / appeals etc. These directions on compliance would not only result in enabling the junior Advocates to follow correctly the law & practice on the one hand but would also enable the Courts in early disposal of the cases and providing prompt justice to the litigants on the other.

2. Hon'ble the Chief Justice has further desired that these directions will be implemented in letter & spirit.

(PHC letter No. 5591-604 Dated: May 30, 1985)

C.No. 4(4-10)

### **USE OF SEAL BY ADVOCATES**

I am directed to bring it to your kind notice that some of the learned members of the Bar are using Seals, which have resemblance with the official seal of the High Court / Sessions Courts.

It may be pointed out that the official seal can only be used by the Courts under Section 26 of the West Pakistan Civil Courts Ordinance, 1962 (Ordinance II of 1962). In other words, use of official seal by the Advocates is not at all permissible under the law and as such the said practice must be stopped forthwith.

You are, therefore, required to direct all the learned members of the Bar to refrain from using such seals in future so as to avoid any confusion.

(PHC letter No. 2789-90 Dated Peshawar the 19.4.1999)

C.No. 5(4-10)

### **STREAMLINING THE AFFAIRS OF CLERKS OF LEGAL PRACTITIONERS**

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice, during his recent visits to various districts, has been pleased to observe that the affairs of the Clerks of Legal Practitioners are not properly dealt with by the District Judges in accordance with the Rules applicable to them, resulting in mismanagement, the ultimate sufferers whereof being the litigant public.

It is, therefore, desired by Hon'ble the Chief Justice to get the matter streamlined by taking appropriate steps in accordance with Chapter 6-J of Vol-V of the High Court Rules & Orders. These steps, inter alia, include the exercise of powers by the District Judge under Rule 11 thereof. The observance of these Rules on the part of Bar Associations should be ensured by the District Judges and Bench Bar Liaison Committee can be a useful Forum for the purpose.

(PHC letter No. 4706-4729/Admn Dated 28.04.2004)

C.No. 6(4-10)

**DIRECTIVES OF HON'BLE THE CHIEF JUSTICE.**

I am directed to say that Hon'ble the Chief Justice is please to direct that henceforth "Wakalatnama" filed in a case shall be accompanied by a copy of the professional Identity Card of the lawyer issued by the Bar Council and shall also contain his enrollment number.

This may be intimated to all the Courts within your administrative control for compliance, please.

(PHC Letter. 4962-87/Admn, Dated 16<sup>th</sup> April, 2015)

C.No. 7(4-10)

**PAYMENT OF PAUPER'S COUNSEL/STATE COUNSEL FEE BILL**

I am directed to refer to the subject noted above forward herewith a copy of letter No. DP/6(4)2014-15/PHC/8986 dated Nil on the subject noted above received from the Directorate of Prosecution, Khyber Pakhtunkhwa and to state that incomplete cases regarding payment of fee bills to Pauper Counsel/State Counsel are received to this department which often causes delay in their payment. It is submitted that provision of the following documents in respect of Pauper Counsel is necessary in this regard.

1. Name
2. CNIC
3. Bar Counsel appointment
4. Bank name
5. Bank code
6. Account number with address
7. Copy of cheque Book, first page.
8. Copy of judgement and fee bill verified from the registrar concerned Bench under his official stamp.

I am further directed to request you that the field formations may be instructed to submit complete cases for payment of pauper's counsel fee bills, by containing the above mentioned documents necessarily.

Letter No. SO (Pros) HD/1-19/2012/vol-1 Dated 20th September, 2015

C.No. 8(4-10)

**RECORD NOTE OF VISIT OF DELEGATION OF DISTRICT BAR ASSOCIATION PESHAWAR, TO HON'BLE THE CHIEF JUSTICE DATED 06.10.2016.**

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice has been pleased to direct that lists of touts be displayed on conspicuous spots in all the court premises of your respective districts, please.

(PHC Letter No. 11186-11210/Admn Dated 19<sup>th</sup> October, 2016)

C.No. 9(4-10)

**REVISED CRITERIA FOR FITNESS CERTIFICATE**

I am directed to refer to the following specimen certificate to be issued by a District & Session Judge to those counsels who want to seek Supreme Court License for practice: -

"A certificate from the concerned District & Session Judge of the District where the applicant is enrolled to the effect that the conduct and behavior of the applicant with the Judges of the District Judiciary is professional, decent and the character of the applicant/advocate is sound and up to the mark."

And to impress upon you that contents of the certificate were intentionally so drafted with a view to restore the authority and dignity of the office of District & Session Judge which will operate as a tool to arrest lawless conduct of some of the counsels at station but the District & Session Judges use to issue the certificate without applying their own intelligent view about professional conduct of counsels and ultimately the objectives of the certificate are defeated.

You are, therefore, called upon to issue the subject certificate as per the specimen to aspirant exercising due diligence so that the objectives visualized in the format are achieved.

With profound regards

(PHC Letter No. 11812-36/Admin: Dated 24<sup>th</sup> July, 2018).

## **SECTION-XI (PROCESSES)**

C.No. 1(4-11)

### **SUBSTITUTED SERVICE**

I am desired to address you on the subject cited above and to say that order-V Rule 10 Sub-rule (1) Code of the Civil Procedure 1908, no doubt empowers courts to affect substituted service of process on a defendant.

- i) When the court is satisfied that the defendant is avoiding service of the summons; or
- ii) for any other sufficient reason the summons cannot be served on him in the ordinary way, nevertheless, this provision of Law needs to be used as a last resort for the obvious reasons that substituted service as compared with actual service of a party to a suit or other proceeding:-
  - (a) is the weakest service;
  - (b) it impairs the principle of natural justice which further requires that no one shall be condemned unheard especially in matters involving valuable properties rights and huge financial implications;
  - (c) thirdly the superior courts with few exceptions here and there usually set aside exparte decrees passed by subordinate courts on the basis of substituted service, and as such it assumes utmost importance.

2. The idea in issuing these instructions is to stress upon the Presiding officers of courts the importance of:

1. actual service and
2. substituted service by
  - (a) tuning up the process serving agency;
  - (b) scrutinizing thoroughly reports of the process servers by the Presiding Officer personally and
  - (c) taking corrective measures including disciplinary action against defaulters where necessary for quick disposal of suit and prompt dispensation of justice.

3. This Court has further reasons to believe that substituted service is not made in accordance with the procedure as laid down in rules 4 and 8 Chapter 7-B of the High Court Rules and Orders Vol: IV which are reproduced below for your ready reference and guidance:

Rule-4



“The discretionary power alluded to above is frequently exercised by courts by publication in one or more newspaper of a notice calling upon the defendant to appear, but in many cases this method is quite unsuitable. When, for example, the defendant is illiterate or belongs to a class which cannot be expected to read newspaper such notice is obviously useless. In the case of Europeans or educated Indians likely to read newspapers it may be proper to resort to this method, but even in such cases, the practice should only be adopted as a last resort,”

Rule-8

“In sending a judicial notice for publication in a newspaper, the court should, in the covering letter, require the manager of the newspaper to send, under postal certificate, the copy of the paper containing the notice to the party for whose perusal it is intended at the address given in the notice, marking the notice in question with red ink, he should also be required, as proof of compliance with this order, to attach the postal certificate to his bill when submitting the letter to the court for payment..”

In view of the above, I am further desired to request you to please strictly adhere, in the ends of justice, to the provisions of the law and rules on the subject referred to above.

(PHC letter No.5045-6056/ Dated Peshawar the 27<sup>th</sup> March, 1983)

C.No. 2(4-11)

### **SERVICE OF THE PARTIES IN CIVIL CASES**

I am directed to say that Civil Appeals, Civil Revision, Petitions etc. fixed before this Court are often adjourned on the dates of hearing for want of service of the parties by the Process Serving Agencies. The reports of the Process Serving Agencies in this connection invariably are that the male petitioners/respondents were not present on the spot and the female petitioners/respondents being Parida Nashin ladies could not be served. Hon'ble the Chief Justice considers a report of this nature not only wholly unsatisfactory but has observed that it reflects adversely on the integrity of the Process Server to make such a report. His honour has further observed that if the address of a male person is correct, there is no reason why he should not be served. The Process Server must visit his residence time and again in an attempt to serve him. As regards the female litigant she can be served through her father, brother, husband, son or her other nearest relative, as the case may be, in the manner that in the presence of a responsible person of the

locality, any of her said relatives may enter the premises of the lady by taking the notice to obtain her signature or thumb impression.

It may be stated that the procedure laid down in the matter of service of the parties in civil cases is simple and practicable and ensures service of the parties. In this connection, reference may be made to Order V, rule 17 of the Civil Procedure Code, which would, inter alia, show that if the defendant refuses to accept service or cannot be found or that in his absence, there is no agent to accept service on his behalf, nor any other person on whom service can be made, a copy of the summons shall be affixed on the outer door or some other conspicuous part of the house in which the defendant ordinarily resides or carries on business or personally works for gain.

A look at the cited provision of the Civil Procedure Code would show, that it is very clear and hardly leaves any chance of non-service of the parties provided their addresses are correct and they do not deliberately avoid service.

I have, therefore, been directed by the Hon'ble Chief Justice to ask you to administer a warning to the Process Serving Agency under your control, that the provisions of Order V, rule 17 of the Civil Procedure Code must be complied with in letter and spirit in the matter of service of the parties in Civil cases. If in future Process Server is found to have reported that the male and female respondents could not be served, as the former was not present on the spot while the latter a Parda Nashin lady, his report will not be accepted unless he shall positively furnish a convincing proof that despite his very earnest efforts he was unable to serve the processes. In case of an unsatisfactory report, action under the Efficiency and Disciplinary Rules may be invoked against the defaulter.

I am to request that the contents of this letter may please be got noted from the staff of the Process Serving Agency under your control for strict compliance and an acknowledgement certificates furnished to this Court for record.

(PHC letter No. 344-356 Dated 13.1.1988)

C.No. 3(4-11)

### **ISSUE OF SUMMONSES IN CASES TO GOVERNMENT DEPARTMENT**

I am directed to say that inconvenience is caused to the Government Departments as well as the Courts when either summons issued by the Courts

to the Government Departments are received late or un-accompanied by a copy of the plaint.

2. I am, therefore, to inform you that the summons may please be issued by the Courts in your District to the Government Department well in time and accompanied by a copy of the plaint in future without fail.

(PHC letter No. 3848-73 Admn: Brh: Dated. Pesh: the 28<sup>th</sup> August, 1989)

C.No. 4(4-11)

**CIVIL REVISION NO. 420 OF 1987 PROTECTION OF THE RIGHTS OF MINORS IN SUITS ACCORDING TO LAW**

I am directed to inform you that it was detected during the proceedings in Civil Revision No.420 of 1987, that the service of minors arrayed as a party therein had not been conducted in accordance with the requirements of law, right from the time when the proceedings in the case commenced before the Civil Judge. The result was that unnecessary defective legal proceedings to the detriment of the rights of the minor continued till the case was remanded back to the lower court by the Peshawar High Court at revisional stage. This lapse on the part of all concerned Judicial Officers obviously resulted in gross mis-carriage of justice and waste of time.

2. I am, therefore, directed to emphasize on all the judicial Officers serving in the NWFP, to exercise great caution in cases where minor/ minors are involved and to ensure that all the proceedings, particularly, in matters relating to service of the minors are meticulously observed according to the requirements of law so that the rights of the minors are fully protected.

3. I am, further directed to stress upon the concerned that any laxity in respect of any right of the minors, if detected, by the High Court would be seriously dealt and action against all the defaulting officers would be taken according to law.

(PHC letter No. Admn. 2996-3095 Brh. Dated Peshawar the 13<sup>th</sup> May,1993)

C.No. 5(4-11)

### **SERVICE OF SUMMONS/NOTICES ISSUED BY THE HIGH COURT**

I have been directed by His Lordship Mr. Justice Sardar Jawaid Nawaz Khan Gandapur, to address you on the subject noted above and to say that as and when the summons/notices issued by this Court are sent to you for service on the petitioner(S)/respondent(s), the same are either not received back in time or are received back without affidavit of the process server who serves the respondent (s)/petitioner(s) etc.

2. The callous attitude of the District and Sessions Judges/Senior Civil Judges sufficiently demonstrates their lack of respect for the orders of the august High Court. I am, therefore, to direct you to take personal interest in the matter of service of summons/notices issued by this Court. You are also to ensure that the processes issued by this Court are returned, served or unserved, well with in time and positively before the date fixed. It should also be ensured that the summons/notices so served invariably bear the affidavits of the process server, which are duly attested by the Civil Nazir/Naib Nazir.

3. I have also been directed to inform you that these instructions should be followed in letter and spirit. Non-compliance with the above instructions shall be reported to His Lordship, the Hon'ble Chief Justice for appropriate action against the defaulting officers.

(PHC letter No. 1812-1855 Dated Peshawar the 13.6.1998)

C.No. 6(4-11)

### **PROCESS SERVING AGENCY**

I am directed to say that of late complaints in regard to inefficiency and corrupt practices in the process serving agencies have increased manifold. These complaints speak volumes about the lack of supervision and effective control. There are also reports suggesting that some process servers are performing duties other than service of processes, which is one of the major factors responsible for their poor performance.

2) You are, therefore, required to keep a vigilant eye on the performance and conduct of the process serving agency under your control and impress upon the process servers and bailiffs that if service of processes entrusted to them is less than 70% for four consecutive months they will expose  
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themselves to disciplinary proceedings under the N.W.F.P. Government servants (Efficiency and Discipline) Rules, 1973. A quarterly report about the performance of the process serving agency, showing the number of summons/ notices served and un-served shall also be furnished to this court without fail.

(PHC letter No.9659-9680 Admn. Dated 9<sup>th</sup> October, 1999)

C.No. 7(4-11)

**IMPLEMENTATION OF THE DECISIONS TAKEN IN THE MEETING OF THE CHIEF JUSTICES COMMITTEE AT ISLAMABAD ON 24<sup>TH</sup> MARCH, 2000.**

I am directed to address you on the subject noted above and to say that in the meeting of the Chief justice's committee held on 24.3.2000, the following decision was taken by the Committee:-

“Monitoring the Performance of Process Servers”

One of the patent snags in the execution of processes to the parties in criminal litigation in general and civil litigation in particular is the delinquency of the process Serving Agency for various reasons. It has a direct nexus with the ‘laws delays’. Since we have embarked upon a campaign to cut short the ‘laws delays’ and deliver justice expeditiously at all levels, it is, therefore, expedient that the Process Serving Agency whether on civil or criminal side should be revamped. The problem can be tackled, as in every such exercise, by immediate and emergent measures and long drawn out program.

Immediate measures should be taken by the District and Sessions judges throughout Pakistan, in consultation with the learned Chief justices of the respective High Courts to the effect that:

- 1) The performance of each and every Process server/Bailiff should be monitored under the direct supervision and control of Senior Civil Judge/Administrative Civil Judge who has the charge of the such Agencies.
- 2) If the Process server is found delinquent in performance, he should be stripped off the powers of execution of processes and made to sit on a job on which there is no public dealing and is not

worth while, a-part from initiating disciplinary proceedings against him.

- 3) As a temporary measure the other officials of the equal grade be involved to perform such duties, if they deliver then they may continue temporarily for some reasonable time frame in order to institutionalize the system. In the meantime, the Process Server who had been side-lined and had been deprived of duty, involving public dealing, would himself come to terms and would promise to perform. In early 1970 the learned senior judge of the Supreme Court Mr. Justice Mohammad Bashir Jehangiri, in his capacity as Senior Civil Judge (as he then was) followed the above process, in consequence whereof, the process used to be successfully executed almost 80 per cent. The same procedure should be strictly followed.

In this connection, attention is also invited to this Court's letter No.9659-9680, dated 9.10.1999. (copy enclosed) whereby instructions were issued to all the Senior Civil Judges in the Province.

I am further directed to request that action taken on the above decision may please be intimated to this Court within shortest possible time, but in no case later than 10 days.

(PHC letter No.3011-32 Dated Peshawar the 19.4.2000)

C.No. 8(4-11)

### **INCORPORATION OF NATIONAL IDENTITY CARD NO. ON PROCESSES**

I am directed to invite your attention to the provisions of CPC regarding service of summons, notices etc and to say that in future, all the officers entrusted with service of processes shall invariably incorporate the National Identity Card No of the persons served as well as the witnesses of the service. Failure on the part of the concerned officer, without reasonable cause, shall render him liable to appropriate disciplinary action.

I am further to ask you to please circulate these instructions among all the Judicial Officers of your district with the direction to communicate the same to all the members of process serving establishment under their control.

(PHC letter No. 13503-13526/ Admn: Dated Peshawar the17.11.03)  
C.No. **9**(4-11)

### **TRAINING PROGRAM FOR THE PROCESS SERVING AGENCY**

I am directed to refer to the subject noted above and to say that it has come to the notice of this Court that training programs / workshops for Process Serving Agency are being held in the Province without prior permission of this Court.

I am, therefore, directed to ask you not to hold such trainings /workshops in future, without prior permission of this Court.

(PHC letter No. 5390-5437/Admn Dated Peshawar, 04<sup>th</sup> May, 2007)

C.No. **10**(4-11)

### **MONITORING THE PERFORMANCE OF PROCESS SERVING AGENCY**

I am directed to refer to the subject cited above and to say that the performance of Process Serving Agency is not up to the mark both in quality and quantity which is one of the reasons for delay in dispensation of justice. You are, therefore, required to direct the Senior Civil Judge to keep a vigilant eye on the performance and conduct of the Process Service Agency and to ensure the compliance of this court direction No. PHC 9659-9680/Admn dated 09.10.1999.

I am further directed to say that in order to improve the quality of processes a training program at local level for the bailiffs/process servers be chalked out. The training should be initiated on priority basis and the schedule be sent this court for information.

(PHC letter No.14354-77/Admn Dated Peshawar, 19<sup>th</sup> November, 2009)

C.No. **11**(4-11)

### **PROPER SERVICE OF COURT SUMMONS/NOTICES AND ITS TIMELY RETURN**

I am directed to refer to the subject noted above and to say that the notices/summons issued by this Court may be given due attention and priority by taking personal interest. The processes served or un-served may be communicated to this Court well within time so that the parties and their

counsel may not suffer due to non-service of processes and the chances of deletion of cases from the cause list of this Court may be minimized.

(PHC letter No. 13795-822/Admn: Dated 01<sup>st</sup> December, 2011)

C.No. **12**(4-11)

### **SERVICE OF THE PARTIES BY PROCESS SERVING AGENCY.**

I am directed to refer to the subject noted above and to say that it has come to the notice of Hon'ble the Chief Justice that the Hon'ble Judges of this Court spent whole night in studying the cases and at the nick of time when the case is called, it is brought to their notice that the service in the case is either incomplete or either of the party is not served which results in adjournment. This state of affairs depicts lethargic attitude on the part of Process Serving Agency, the official at the helm of affairs and the officers supervising them. Besides, the non-appearance or assigning of a case to any State counsel on the part of Advocate General Office creates problems.

I am, therefore, to convey the following directions/observations of Hon'ble the Chief Justice for smooth running as well as quick disposal of judicial business, for strict compliance of all concerned: -

1. The concerned official shall place a report/certificate verifying the factum of service or otherwise on each case before submitting the same for study.
2. Notice issued to the parties shall also be placed on the file, so that before going through the record of the entire file, report can be seen. The information shall be exhibited on the top of case file.
3. The State Counsel who is to appear in the case, his assignment must be communicated by the Advocate General Office in black and white and such record be also placed on file.

(PHC Letter No. 4119-23/Admn, Dated 31<sup>st</sup> March, 2012)

C.No. **13**(4-11)

### **INEFFICIENT PROCESS SERVING AGENCY**

I am directed to convey the displeasure of the Competent Authority and to say that complaints of inefficiency and corrupt practices are being received at random, which speaks volumes about the lack of supervision and effective control on your part.



You are, therefore, reminded to keep a vigilant eye on the performance and conduct of the process agency with strict action against the delinquents.

(PHC Letter No. 9613-37/Admn, Dated 14<sup>th</sup> June, 2014)

C.No. **14**(4-11)

### **SERVICE REPORT OF NOTICES**

Enclosed find herewith copy of letter No. F.1-DR(J)/2014-SCJ(I) dated 02.10.2014, on the cited subject, received from the Deputy Registrar (Judicial), Supreme Court of Pakistan, Islamabad, for information and compliance.

(PHC Letter No. 13530-78/Admn Dated 13<sup>th</sup> October, 2014)

C.No. **15**(4-11)

### **SERVICE REPORT OF NOTICES**

I am directed to state that notices in the cases fixed before the Supreme Court are issued through process serving agencies working under the control of learned District & Sessions Judges with the request to serve the same upon the persons (s) mentioned therein and copy thereof in token of service is to be returned to this court through Fax immediately before date of fixation for perusal of Hon'ble Judges at the time of hearing in Court. However, it has been observed that either the service report of notices is sent to this court by the office of concerned District & Sessions Judges at eleventh hour or after date of fixation due to which inconvenience is caused to the Hon'ble Court.

2. In these circumstances, Hon'ble Chief Justice of Pakistan has been pleased to direct that a fresh directive be issued to all concerned District & Sessions Judges/Civil Judges through Registrar of High Courts to re-emphasize upon the concerned quarters to ensure immediate service of notices and to send reports thereof through Fax to this court well before the date of fixation of cases by taking special steps in this regard.

3. In view of the above, you are requested to convey above direction of the Hon'ble Chief Justice of Pakistan to all District and Sessions Judges/Civil Judges serving under your kind control for compliance so that inconvenience may not be caused to the Hon'ble Court in future at the time of hearing of

case due to non-availability of service report as in such a situation, cases cannot proceed and Court often takes note thereof.

(Letter No. F.1-DR(J)/20 Dated 2<sup>nd</sup> October 2014)

C.No. **16**(4-11)

**NON-SUBMISSION OF MONTHLY PERFORMANCE REPORT OF PROCESS SERVING AGENCY AND INEFFICIENCY ON PART OF PROCESS SERVERS/BAILIFFS.**

It is noticed with concern that, some districts don't submit the report, and similarly, it's equally dismal that, performance of some of the process servers/bailiffs is below the 70 % mark, which speaks volumes about the lack of supervision and affective control on the process serving agency.

I am, therefore, to refer you to this office's earlier letter No. 9659-9680/Admn dated 09.10.1999, and to ask for timely submission of the subject report to this court, and also to keep a vigilant eye on the performance of the process serving agency under your control so that, performance of the process servers/bailiffs, in no circumstance, ebbs below 70 % for four consecutive months, else, they will expose themselves to disciplinary proceedings under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. A quarterly report about the performance of process serving agency, showing the number of summons/notices served and un-served shall also be furnished to this court, please.

(PHC Letter. 5581-605/Admn, Dated 30<sup>th</sup> April, 2015)

C.No. **17**(4-11)

**EFFECTIVE EXECUTION OF SERVICE ON THE GOVERNMENT AUTHORITIES/ FUNCTIONARIES.**

I am directed to refer to the subject noted above and to say that his lordship Hon'ble the Chief Justice has been pleased to direct the following;

"The execution of summons/notices of Peshawar High Court on the Government Authorities/Functionaries be ensured by obtaining official stamp as token of receipt from the receiving official/clerk of the concerned department in order to avoid delay in execution"

You are, therefore, to ensure that the directives are implemented in letter and spirit.

(PHC Letter No.10558-82/Admn Dated 09<sup>th</sup> September, 2015)

C.No. 18(4-11)

**RETURN OF SUMMONS/NOTICES AND WARRANTS ON TIME AFTER SERVICE/EXECUTION.**

It has been noted with concern by the Hon'ble Judges of this Court that notices/summons/warrants issued for service/execution upon the parties in various cases are not returned to this Court despite lapse of months after issuance thereof.

Therefore, all concerned under your control may be directed to return the notices/summons/warrants to this Court immediately after service/execution so as to reach this court not later than two days before the date fixed.

(PHC Letter No.20113-137/Admn, Dated 18<sup>th</sup> December, 2017)

C.No. 19(4-11)

**SERVICE OF SUMMONS/NOTICES ISSUED FROM PESHAWAR HIGH COURT**

It has been noted with concern by the Hon'able Chief Justice & Judges of this Court that in most of the cases, it is reported that the addresses especially the lawyers have been informed telephonically despite the fact that the notices are issued long before the dates of hearing and the Process Servers do have sufficient time to properly serve the addressees/counsel. It has further been noted that in cases where notices are issued to various government offices, only stamp of such offices are available on the summons/notices which too are illegible with no report written as to how or who was served.

Their lordships have, therefore, been pleased to direct that all concerned be issued instructions to ensure that such way of service is avoided and every addressee is served properly and well within time.

(PHC Letter No.5911-44/Admn Dated 20<sup>th</sup> March, 2019)

C.No. 20(4-11)

**SERVICE OF SUMMONS/NOTICES ISSUED FROM PESHAWAR HIGH COURT.**

I am directed to refer to the subject noted above and to inform you that the Hon'ble Chief Justice & Judges of this Court have noted with great

concern that in most of the cases the summons/notices issued by this Court are either not returned at all after the service or returned without proper service. Their lordships have therefore been pleased to direct that you all should look personally into the matter of serving summons/notices sent to you by this Court and make it sure that the same are served in proper manner and returned to this Court at least 3/4 days before the date fixed. Their lordships have warned that henceforth any violation of these instructions will be taken serious note of & besides the Process Servers the Senior Officers Supervising them would also have to account for the lapses.

(PHC Letter No.15121-145 Dated 19<sup>th</sup> September, 2020)

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**CHAPTER-V  
LEGAL PRACTITIONERS AND PARALEGALS**

**SECTION-I  
OATH COMMISSIONERS**

C.No. 1(5-1)

**LEGAL PROVISION REGARDING OATH COMMISSIONERS**

**Sec. 139 of CPC: Oath on affidavit by whom to be administered.**

In the case of any affidavit under this Code.

- (a) any Court or Magistrate, or
- (b) any officer or other person whom a High Court may appoint in this behalf, or
- (c) any officer appointed by any other Court which the Provincial Government has generally or specially empowered in this behalf, may administer the oath to the deponent.

C.No. 2(5-1)

**HIGH COURT RULES AND ORDERS PART-B (AFFIDAVITS)  
CHAPTER-12, VOLUME IV**

- 1. Relevant law.-** The provisions of the Code of Civil Procedure, 1908 on the subject of affidavits, are contained in section 139 and Order XIX of the Code.
- 2. Superior Court may send affidavit for attestation to a lower Court. ---** When an application for the attestation of an affidavit is presented to any Court superior to the Court of Sub-Judge, 4<sup>th</sup> Class, such Court may, if convenient, refer it for disposal to an inferior Court sitting at the same place.
- 3. Affidavit exempted from Court –fees.—**No Court-fee or other stamp is required upon an affidavit made for the immediate purpose of being filed and used in any Court or before an officer of any Court under Stamp Act, 1899, Schedule I, Article 4, exemption (b) and no fee has been prescribed as chargeable for the attestation of an affidavit except as laid down in paragraph 5 below.
- 4. Joint affidavit-** There is no legal objection to several persons joining in a single affidavit in whole or in part; but Courts or Magistrates should, in

such cases, be careful that each declarant deposes separately, and that the certificate is adapted to the actual circumstances of the particular case.

**5. Oath Commissioners.—their appointment. Fees etc.** (i) Under section 139 (b) of the Code of Civil Procedure approximately <sup>1</sup>[fifty to sixty] legal practitioners at <sup>2</sup>[all Divisional Headquarters], <sup>3</sup>[thirty-five to forty] at <sup>4</sup>[all District Headquarters] and <sup>5</sup>[six to ten] at each station, where there is a Subordinate Judge, are appointed as commissioners for the purpose of administering oaths affirmations.

(ii). Such Commissioners are ordinarily appointed from among legal practitioners of not less than three year's standing at the Bar. They may continue as such until the expiry of thirteen years reckoned from the date of first admission as a legal practitioner, provided that their work is satisfactory, \* or until the further orders of the High Court, whichever is earlier.

**Note:**\_\_ The thirteen years referred to in this clause include periods during which a legal practitioner does not practice.

<sup>6</sup>[(iii). Commissioners may charge a remuneration of rupees, **fifty (50)** in cash for each affidavit and shall keep a register in Form prescribed in Paragraph 7 infra in which all affidavits shall be entered a written receipt for amount paid shall be given by the commissioner to the deponent. The receipt shall be in a printed form consisting foil and counterfoil, the file being handover to the person paying the money and the counterfoil being kept by the commissioner for purposes of inspection.

The above charge will be an addition to any stamp duty payable on the affidavit under the stamp act, 1899, scheduled 1 article 4.

**Note...** The commissioner will be entitled to an additional fee of rupees **two hundred** from a deponent when he is required to attend the deponent's residence.]

<sup>1</sup> Amended vide PHC Order Endst. No.5074-5125/Admn Dated 08-04-2014.

<sup>2</sup> Amended vide PHC Endst. No. 3421-3443/Admn Dated 02.05.1997

<sup>3</sup> Amended vide PHC Order Endst. No.5074-5125/Admn Dated 08-04-2014.

<sup>4</sup> Amended vide PHC Endst. No. 9352-9399/Admn.Dated 21.12.2000

<sup>5</sup> Amended vide PHC Order Endst. No.5074-5125/Admn Dated 08-04-2014.

\* Ordinary term of appointment of oath commissions will be three years, and in exceptional cases it may be extended for a further period of three years and not beyond it--- (Decision of Admn: Committee of Peshawar High Court dated 06.04.1972)

<sup>6</sup> Substituted vide PHC Endst.No.5680-5800/Admn. Dated 30.03.17



<sup>1</sup> [(iv) The District & Sessions Judge himself or through the judicial officer nominated by him shall inspect the register/record of the Oath Commissioners, of his Sessions division, after every three months and prepared and submit a detail report to the High Court.]

**6. Attestation of affidavits by process serving and other officials.** In order to facilitate the verification of affidavits of serving officers made under Order V. Rule 19, Order XVI, Rule 10, of the Code of Civil Procedure the Provincial Government has empowered the Court of the Subordinate Judge of the First Class in charge of the Nazarat to appoint an officer subordinate to itself to administer oaths to process-servers, bailiffs, Naib-Nazirs and Nazirs making affidavits of service of summons, notice and other processes under the Code of Civil Procedure, (Punjab Government Notification No. 216—19, dated the 20<sup>th</sup> June 1931). In the case of such affidavits and of all other affidavits made by officers of the Courts in their official capacity, no application, such as is referred to in paragraph 2 is necessary.

**7. <sup>2</sup>/Register of affidavits.—**

- I.** A register of affidavits, in the following form, should be maintained at the headquarters of every district at each Court attested and every affidavit verified, should be entered,
- II. Oath Commissioner register shall contain the following;**
  - a. Serial Numbers.
  - b. Date and time of making affidavit.
  - c. Particulars of the case to which affidavit relates.
  - d. On whose behalf the affidavit has been filed.
  - e. Full particulars of the person making affidavit.
  - f. Particulars of the person identifying him.

<sup>1</sup> Added vide PHC Endst.N0.5680-5800/Admn. Dated 30.03.17

<sup>2</sup> Substituted vide PHC Endst.N0.5680-5800/Admn. Dated 30.03.17

**Form of Register**

Register of affidavits attested in the \_\_\_\_\_ of the  
 \_\_\_\_\_ in the \_\_\_\_\_ District \_\_\_\_\_

1	2	3	4	5	6	7	8	9
<i>Serial No.</i>	<i>Date and "time" of application of tendering affidavit.</i>	<i>Name, "Father Name And other particulars" of person tendering application (if any) or affidavit.</i>	<i>Nature of affidavit briefly stated; if the affidavit relate to a cause in court, the cause should be specified.</i>	<i>Detail of Exhibits (if any) attached to affidavit.</i>	<i>Civil Court, Magistrate or other officer empowered in that behalf administering the oath are</i>	<i>Date of administering oath or affirmation.</i>	<i>Particulars of the person identifying him.</i>	<i>Signature and Designation of Civil Court, or other officer.</i>

<sup>1</sup>[**Rule 7-A.** The district judge shall provide register of affidavit to the Oath Commissioner, on payment of cost, certify the number of pages contain in the register.

**Rule 7-B. Deposit of register in the sessions record room;** Register or Registers, on completion shall be deposited in the record room of the District & Sessions Judge.]

**8. Title of affidavit.**—(i) Every affidavit to be used in a Civil Court shall be entitled:--  
 "In the Court of-----at-----  
 (naming the Court and place of sitting).

<sup>1</sup> Added Vide PHC Endst.N0.5680-5800/Admn. Dated 30.03.17

- (ii) If there be a cause in Court, the affidavit in support of or opposition to an application respecting it shall also be entitled in the cause, thus:--

\_\_\_\_\_ PLAINTIFF

against

\_\_\_\_\_ DEFENDANT

Claim: \_\_\_\_\_  
 (Naming the parties and stating the nature of the claim)

- (iii) If there be no cause in Court, the affidavit shall be entitled:  
 “In the matter of the petition of \_\_\_\_\_  
 \_\_\_\_\_ (name) praying \_\_\_\_\_  
 \_\_\_\_\_.” (Brief statement of subject).

- (iv) Every affidavit shall further entitled:-  
 “Affidavit of \_\_\_\_\_ (name) made on this \_\_\_\_\_  
 day of \_\_\_\_\_ 19 (date) before  
 \_\_\_\_\_ name of  
 Attesting officer), at \_\_\_\_\_” (place).

- <sup>1</sup>[**Contents of affidavits.**—(i) Every affidavit containing any statement of facts shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and, as nearly as may be, shall be confined to a distinct portion of the subject.
- (ii) Every person, other than a plaintiff or defendant in a suit in which the application is made, making any affidavit, shall be described in such manner as will serve to identify him clearly; that is to say, by the statement of his full name, the name of his father, **CNIC Number, Mobile Number (if any)**, his profession or trade, and the place of his residence.]
- (iii) When the declarant in any affidavit speaks to any facts within his own knowledge, he must do so directly and positively, using the words ‘*I affirm*’ or ‘*I make oath and say*’.
- (iv) When the particular fact is not within the declarant’s own knowledge, but is stated from information obtained from others, the declarant must use the expression “*I am informed,*

<sup>1</sup> Substituted vide PHC Endst.N0.5680-5800/Admn. Dated 30.03.17

-and, if such be the case, should add '*and verily believe it to be true*,- or he may state the source from which he received such information. When the statement rests on facts disclosed in documents, or copies of documents procured from any Court of Justice or other source, the declarant shall specify the source from which they were procured, and state his information or belief as to the truth of the facts disclosed in such documents.

10. **Affidavits generally to be confined to facts which are within defendant's knowledge.**- Attention is drawn to Order XIX, Rule 3, which lays down that affidavit shall be confined to such facts, as the deponent is able of his own knowledge to prove, except interlocutory applications (See Order XXXIX, Rules 6 to 10), on which statements of his belief may be admitted : provided that the grounds thereof are stated.

11.<sup>1</sup> **[Identification of deponent.** Every person making an affidavit shall, if not personally known to the Court, Magistrate or other officer appointed to administer the oath or affirmation, be identified to such Court, Magistrate or officer by some person known to him, and such Court, Magistrate or officer shall specify, at the foot of the affidavit, the name and description **i.e. Name, Father Name, and CNIC Number** of the person by whom the identification is made, as well as the time and place of the identification and of the making of the affidavit.]

**12. Mode of attestation.** — The Court, Magistrate, or other officer as aforesaid, before whom an affidavit is made, shall certify at the foot of the affidavit the fact of the making of such affidavit before him, and shall enter the date and subscribe his signature to such certificate, and shall, for the purpose of identification, mark, date, and initial every exhibit to in the affidavit. The name of the verifying authority must be signed in full, and care must be taken that proper designation as a Civil Court or Magistrate is added.

**13. Female deponents.**—<sup>2</sup>[An affidavit purporting to have been made by a female declarant, who has not appeared unveiled before the Court, Magistrate, or other officer as aforesaid, before whom the affidavit is made, shall not be certified, unless and until she has been identified before, **by her husband or by other relation in prohibitory degree**, and an affidavit of her identity by the person identifying her has been made before, and certified by such Court, Magistrate or officer.]

<sup>1</sup> Substituted vide PHC Endst.N0.5680-5800/Admn. Dated 30.03.17

<sup>2</sup> Substituted vide PHC Endst.N0.5680-5800/Admn. Dated 30.03.17

**14. Attesting officer's duty.**—If any person making an affidavit appears to the Court, Magistrate or other officer administering the oath on affirmation, to be ignorant of the language in which it is written, or to be illiterate, or not fully to understand the contents of the affidavit, such Court, Magistrate or officer shall cause the affidavit to be read and explained to him in a language which both he and such Court, Magistrate or officer understand; either doing so himself, or causing another person to do so in his presence. When an affidavit is read and explained as herein provided, such Court, Magistrate or other officer as aforesaid shall certify in writing at the foot of the affidavit that it has been so read and explained, and that the declarant seemed perfectly to understand the same at the time making it.

**15. Attesting, signing and verification of affidavits.**—Every affidavit shall be signed or marked and verified at foot by the declarant and attested by the Court, Magistrate or other officer administering the oath or affirmation, the verification by the declarant shall be in one of the forms attached hereto, and shall be signed or marked by the declarant. The attestation of the Court, Magistrate or other officer administering the oath or affirmation shall also be in the form prescribed below.

**16. Manner of administering oath to deponent.** In administering an oath or affirmation to the declarant in the case of any affidavit under the Code of Civil Procedure, the Court, Magistrate or other officer appointed in that behalf shall be guided by the rules under the Oaths Act, 1873, printed in Part A of this Chapter and shall follow the form of verification by oath or affirmation hereto appended.

<sup>1</sup>[17. On completion of tenure or cancellation of license of licensee, register and his seal both shall be consigned to district record room.]

**I. FORM OF VERIFICATION OF OATH OR AFFIRMATION  
(Vide Paragraph 15 Above)**

**Oath**

I solemnly swear that this my declaration's true, that it conceals nothing, and that no part of it is false—so help me God!

**Affirmation**

I solemnly affirm that this my declaration is true, that it conceals nothing, and that no part of it is false.

---

<sup>1</sup> Added vide PHC Endst.N0.5680-5800/Admn. Dated 30.03.17

**II. FORM OF CERTIFICATE**

**(Vide PARAGRAPH 12, 14 and 15 ABOVE)**

Certified that the above was declared on (a) -----before me  
this (b) -----day of (c) -----19,  
at (d)-----in the district of (e) -----by  
(f)-----who is  
(g) -----

(Full signature)  
A.B.

(Office) District Judge (or as the case may be) of-----  
oath

- a. here enter-----as the case may be affirmation
- b. date
- c. months
- d. Place,
- e. name of district,
- f. full name and description of declarant,
- g. here enter “personally known to me” or “identified at (time and place of identification by (full name and description of person making the identification who is personally know to me.”

**II-A**

The exhibits marked A, B, C (as the case may be) above referred to are annexed hereto under this date and my initials.

**II-B**

Certified further that this affidavit has been read and explained to (name) -----the declarant who seemed perfectly to understand the same at the time making thereof.

C.No. 3(5-1)

**RECORD NOTE OF VISIT OF THE MEMBERS OF THE DISTRICT  
BAR ASSOCIATION KARAK TO HON'BLE CHIEF JUSTICE ON  
23.04.2014**

I am directed to convey the following extracts of the subject recorded note for circulation amongst all the judicial magistrates within the district, for information and compliance: -

“All the Judicial Magistrates throughout the province be directed not to refuse the affidavits attested by Oath Commissioners/ Notary Public regarding admissions of the students in the colleges/ educational institutions”

(PHC Letter No. 8638-63/Admn, Dated 15th April, 2014)

**SECTION-II  
(NOTARIES)**

C.No. 1(5-2)

**THE NOTARIES ORDINANCE, 1961**

(ORDINANCE No. XIX OF 1961)

[14<sup>TH</sup> June 1961]

An Act to provide for and to regulate the profession of notaries in Pakistan.

Whereas it is expedient to provide for and to regulate the profession of notaries in Pakistan.

Now, therefore, in pursuance of the Proclamation of the seventh day of October, 1958 and in exercise of all powers enabling him in that behalf the President is pleased to make and promulgate the following Ordinance.:-

**1. Short title extent and commencement.-**

- (1). This Ordinance may be called the Notaries Ordinance, 1961.
- (2). It extends to the whole of Pakistan.
- (3). It shall come into force on such date<sup>1</sup> as the Provincial Government may, by notification in the official Gazette, appoint.

**2. Definitions:-** In this Ordinance, unless the context otherwise requires,--

- (a). “Instruments” includes every document by which any right or liability is, or purports to be, created, transferred, modified, limited, extended, suspended, extinguished or recorded;
- (b). “legal practitioner” means any advocates or attorney of the Supreme Court or any advocate of the High Court or any pleader authorized under any law for the time being in force to practice in any court of law;
- (c). “notary” means a person appointed as such under this Ordinance:

---

<sup>1</sup> This Ordinance has been brought into force in the Province of West Pakistan except the Tribal Areas with effect from the 5th January, 1966



Provided that for a period of six months from the commencement of this Ordinance it shall include also a person who, before such commencement, was appointed a notary public by the Master of Faculties in England, and is, immediately before such commencement, in practice as a notary in any part of Pakistan;

- (d). “prescribed” means prescribed by rules made under this Ordinance;
- (e). “Register” means a Register of Notaries to be maintained under section 4.

**3. Power to appoint notaries.** -- The Provincial Government, for the whole or any part of the Province, may appoint as notaries any legal practitioners or other persons who possess such qualifications as may be prescribed.

**4. Registers.** — (1). The Provincial Government shall maintain, in such form as may be prescribed, a Register of the notaries appointed by that Government and entitled to practice as such under this Ordinance.

(2). every such Register shall include the following particulars about the notary whose name is entered therein, namely:-

- (a) his full name, date of birth, residential and professional address;
- (b) the date on which his name is entered in the Register;
- (c) his qualification; and
- (d) any other particulars which may be prescribed.

**5. Entry of names in the Register and issue or renewal of certificates of practice.**— (1). Every notary who intends to practice as such shall, on payment to the Provincial Government of the prescribed fee, if any, be entitled—

- (a) to have his name entered in the Register maintained by that Government under section 4, and
- (b) to a certificate authorizing him to practice for a period of three years from the date on which the certificate is issued so him.

<sup>1</sup>[(2). Every such notary who wishes to continue to practice after the expiry of the period of three years referred to in clause (b) of subsection (1)

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<sup>1</sup> Substituted by Ord. LI of 1984.

shall, at such time before the expiry of the said period as may be prescribed, submit to the Provincial Government an application for renewal of his certificate of practice accompanied by the prescribed fee.

(3) On receipt of an application under subsection (2) from a notary, the Provincial Government may, if, after such inquiry as it may deem fit, it is satisfied that the conduct of the notary during the preceding three years has been unobjectionable, renew the certificate of practice for a period of three years.

(4) A person who has been in practice as a notary for a continuous period of six years shall not be appointed as a notary unless a period of not less than three years has elapsed since the expiry of the period for which his certificate of practice was renewed].

6. **Annual publication of lists of notaries.**—The Provincial Government shall, not later than the end of January each year, publish in the official Gazette a list of notaries appointed by that Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.

7. **Seal of notaries.**—Every notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.

8. **Functions of notaries.**—(1). A notary may do all or any of the following acts by virtue of his office, namely:--

- (a) verify, authenticate, certify or attest the execution of any instrument;
- (b) present any promissory note, hundi or bill of exchange for acceptance or payment or deemed better security;
- (c) note or protest the dishonor by non-acceptance or non-payment of any promissory note, hundi or bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881, or serve notice of such note or protest;
- (d) note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters;
- (e) administer oath to, or take affidavit from, any person;
- (f) prepare bottomry and respondentia bonds, character parties and other mercantile documents;

- (g) prepare, attest or authenticate any instrument intended to take effect in any country or place outside Pakistan in such form and language as may conform to the law of the place where such deed is intended to operate;
- (h) translate, and verify the translation of, any document from one language into other;
- (i) any other act which may be prescribed.

(2). No act specified in sub-section (1) shall be deemed to be a notarial act except when it is done by a notary under his signature and official seal.

9. **Bar of practice without certificate.**—(1). Subject to the provisions of this section, no person shall practice as a notary or do any notarial act under the official seal of a notary unless he holds a certificate of practice in force issued to him under section 5;

Provided that nothing in this sub-section shall apply to the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary acting on behalf of such notary.

(2). Nothing contained in sub-section (i) shall, until the expiry of six months from the commencement of this Ordinance, apply to any such person as is referred to in the proviso to clause (c) of section 2.

10. **Removal of names from Register.**-- The Provincial Government may, by order, remove from the Register maintained by it under section 4 the name of the notary if he--

- (a) makes a request to that effect ; or
- (b) has not paid any prescribed fee required to be paid by him; or
- (c) is an undischarged insolvent ; or
- (d) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of the Government , renders him unfit to practice as a notary.

11. **Construction of references to notaries to public in other laws.**-- subject to the provisions of section 16, any reference to a notary public in any other law shall be construed as a reference to notary entitled to practice under this Ordinance.

12. **Penalty for falsely representing to be a notary, etc.**—Any person who-

- (a) falsely represents that he is a notary without being appointed as such or
- (b) practices as a notary or does any notarial act in contravention of section, 9

shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

13. **Cognizance of offences.**—(1). No Court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this Ordinance save upon complaint in writing made by an officer authorized by the Provincial Government by general or special order in this behalf.

(2). No magistrate other than a magistrate of the first class shall try an offence punishable under this Ordinance.

14. **Reciprocal arrangement for recognition of notarial acts done by foreign notaries.**—If the Central Government is satisfied that by the law or practice of any country or place outside Pakistan , the notarial acts done by notaries within Pakistan are recognized for all or any limited purposes in that country or place, the Central Government may, by notification in the official Gazette, declare that the notarial acts lawfully done by notaries within such country or place shall be recognized within Pakistan for all purposes or, as the case may be, for such limited purposes as may be specified in the notification.

15. **Power to make rules.**—(1). The Provincial Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2). In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely--

- (a) the qualifications of a notary, the form and manner in which applications for appointment as a notary may be made and the disposal of such applicants;
- (b) the certificates, testimonials or proofs as to character, integrity, ability and competence which any person applying for appointment as a notary may be required to furnish ;
- (c) the fees payable for appointment as a notary and for the issue and renewal of a certificate of practice, and exemption,

whether wholly or in part, from such fees in specified classes of cases ;

- (d) the fees payable to a notary for doing any notarial act;
- (e) the form of Registers and the particulars to be entered therein;
- (f) the form and design of the seal of a notary;
- (g) the manner in which inquiries into allegations or professional or other misconduct of notaries may be made ;
- (h) the acts which a notary may do in addition to those specified in section 8 and the manner in which a notary may perform his functions.

16. **Saving of Act XXVI of 1881.** — Nothing in this Ordinance affects the provisions of the Negotiable Instruments Act, 1881, or any appointment made in pursuance of section 138 of that Act or the power of any person so appointed.

C.No. 2(5-2)

## **WEST PAKISTAN NOTARIES RULES, 1965**

**(Gazette of West Pakistan, Extraordinary, 5<sup>th</sup> January, 1966)**

No. 5/8-H. Judl. (II)/61. In exercise of the powers conferred by section 15 of the Notaries Ordinance, 1961 (Ordinance XIX of 1961), the Governor of West Pakistan is pleased to make the following rules, namely:-

**1. Short title and commencement.** (1) These rules may be called the West Pakistan Notaries Rules, 1965.

**2. Definitions.** In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) “Competent authority” means the officer or authority designated as such by Government under rule 5 ;
- (b) “Form” means the respective forms appended to these rules ;
- (c) “Government” means the Government of West Pakistan;
- (d) “Ordinance” means the Notaries Ordinance, 1961 (XIX of 1961); and
- (e) “Section” means the respective sections of the Ordinance.

**3. Qualifications for appointment as a notary.** No person shall be eligible for appointment as a notary unless on the date of the application for such appointment-

- (a) he is a notary public appointed by the Master of Faculties in England; or
- (b) he has been practicing as a legal practitioner for at least five years.

**4. Age.** (1) No person shall be appointed as notary who is less than thirty years.

(2) A person appointed as notary shall cease to hold office on his Completing the sixty-fifth year of his age.

**5. Application for appointment as a notary.** (1) A person may make an application for appointment as a notary (herein after called “the applicant”) in the form of a memorial addressed to such officer or authority, as Government may, by notification, designate in this behalf.

(2) The memorial shall be drawn in accordance with Form 1

**6. Preliminary action on application.** The competent authority shall examine every application received by it and, if it is satisfied that the applicant does not possess the qualifications specified in rule 3, or is not within the age group specified in rule 4, shall reject it and inform the applicant accordingly.

**7. Recommendations of the competent authority.** (1) The competent authority, shall after holding such enquiry as it thinks fit, make report to Government recommending either that the application may be granted for the whole or any part of the area to which the application relates or that it may be rejected.

(2) In making its recommendation under sub-rule (1), the competent authority shall have due regard to the following matters, namely:-

- (a) whether the applicant ordinarily resides (in the area in which he proposes to practice as a notary;
- (b) whether , having regard to the commercial importance of the area in which the applicant proposes to practice and the number of existing notaries practicing in the area, it is necessary, to appoint any additional notaries for the areas;
- (c) whether, having regard to his knowledge and experience of commercial law and the nature of the objections if any, raised in respect of his appointment as a notary and in the case of a legal practitioner also to the extent of his practice, the applicant is fit to be appointed as a Notary;
- (d) where the applicant belongs to a firm of legal practitioners, whether having regard to the number of existing notaries in

that firm, it is proper and necessary to appoint any additional notary from that firm ; and

- (e) where applications from other applicants in respect of the area are pending, whether the applicant is more suitable than such other applicants.

**8. Appointment of notary.** (1) Government shall consider the report made to it by the competent authority under rule 7, and may thereupon:-

- (a) grant the application in respect of the whole or part of the area to which it relates ; or  
(b) reject the application.

(2) The applicant shall be informed of the order passed by Government under sub-rule (1).

(3) Where the application is granted, Government shall appoint the applicant as a notary and direct his name to be entered in the register of Notaries maintained under section 4 and issue to him a certificate on payment of prescribed fee authorizing him to practice in the area to which the application relates or any such part thereof as Government may specify in the certificate, as a notary for a period of three years from the date on which the certificate is issued to him.

(4) The register of Notaries under section 4 shall be maintained by the Home Department in Form II.

**9. Extension of Area of practice:-** (1) A Notary, who holds a certificate of practice in respect of a particular area, may apply to Government for extension of his area of practice, and Government may thereupon after considering the application and other factors, pass such orders thereon as it may deem fit.

(2) Any extension of the area of practice shall not have the effect of extending the period of validity of the original certificate beyond the period of three years prescribed under sub-rule (3) of rule 8.

**10. Fees for the issue, extension or renewal of certificate of practice.** The fees for the issue, extension, renewal or duplicate copy of a certificate shall be as follows:-

(i)	issue of a certificate of practice as notary.	Rs. 100
(ii)	extension of the area of practice.	Rs. 50
(iii)	renewal of certificate of practice.	Rs. 25
(iv)	a duplicate of certificate.	Rs. 5

**11. Fees payable in West Pakistan to a notary for doing any notarial work:** (1) Every Notary shall be entitled to charge fees at the rate mentioned below: -

- |   |        |
|---|--------|
| (a) For noting an instrument if the amount of instrument does not exceed Rs. 1,000,   | 5.00   |
| if it exceeds Rs. 1,000 but does not exceed Rs.5,000,   | 8.00   |
| if it exceeds Rs. 5,000 but does not exceed Rs.20,000,  | 12.00  |
| if it exceeds Rs. 20,000 but does not exceed Rs.30,000  | 6.00   |
| if it exceeds Rs. 30,000 but does not exceed Rs.50,000  | 20.00, |
| if it exceeds Rs. 50,000,   | 25.00  |
| <br>  |        |
| (b) For protesting an instrument –  |        |
| if the amount of the instrument does not exceed Rs.1,000,   | 10.00  |
| if it exceeds Rs. 1,000 but does not exceed Rs.5,000,   | 12.00  |
| if it exceeds Rs. 5,000 but does not exceed Rs.20,000,  | 15.00  |
| if it exceeds Rs. 20,000 but does not exceed Rs.30,000,   | 18.00  |
| if it exceeds Rs. 30,000 but does not exceed Rs. 40,000,  | 21.00  |
| if it exceeds Rs. 40,000 but does not exceed Rs.50,000  | 24.00  |
| if it exceeds Rs. 50,000 but does not exceed Rs. 60,000   | 27.00  |
| if it exceeds Rs. 60,000 but does not exceed Rs.70,000  | 30.00  |
| if it exceeds Rs. 70,000 but does not exceed Rs.80,000  | 33.00  |
| if it exceeds Rs. 80,000 but does not exceed Rs. 90,000   | 36.00  |
| if it exceeds Rs. 90,000 but does not exceed Rs.1,00,000  | 40.00  |
| if it exceeds Rs. 1,00,000  | 50.00  |
| (c) For recording a declaration of payment for honour, Rs. 5.00:  |        |
| (d) For duplicate protests, half the charge of original;  |        |
| (e) For verifying, authenticating, certifying or attesting the execution of any instrument, Rs. 5.00.   |        |
| (f) For presenting any promissory note, hundi or bill of exchange for acceptance or payment or demanding better security, Rs.15.00.   |        |
| (g) For administering oath to, or taking affidavit from, any person, in relation to the matters enumerated in section 8, Rs. 2.50.  |        |
| (h) For preparing any instrument intended to take effect in any country or place outside Pakistan in such form and language as may conform to the law of the place where such deed is intended to operate, Rs. 50.00. |        |
| (i) For attesting or authenticating any instrument intended to take effect in any country or place outside Pakistan in such form and  |        |



language as may conform to the law of the place where such deed is intended to operate Rs. 25.00.

- (j) For translating, and verifying the translation of any document from one language into another, Rs. 25.00.
- (k) For any other notarial work, such sum as Government may fix from time to time.

(2) In addition to the fees specified in sub-rule (i), a notary shall be entitled to charge, when required to attend at any place more than one mile from his office.

- (a) where the notary is a Government Officer- travelling allowance in accordance with the West Pakistan Travelling Allowances Rules; and
- (b) where the notary is not a Government Officer-
  - (i) if the place he is required to attend is in the same station as his office, Rs. 5.00:
  - (ii) if the place where he is required to attend is not in the same station as his office, travelling allowance at the rate of twenty paise per mile for a journey by rail, and fifty paise per mile for a journey by road.

**12. Transaction of Business by a Notary.** (1) A notary in performing his functions under the Ordinance, shall use Forms III to XIV.

(2) Every notary shall maintain a book, with pages consecutively numbered, known as Notarial Register in which he shall record-

- (a) all declarations of payment for honour;
- (b) verbatim copies issued by or protesting of instrument(s); and
- (c) all certificates issued by him, etc. for verification, authentication, certification and attestation of the execution of instruments and fix his signature to each entry in the said Register.

(3) Each notary shall, before bringing the Notarial register into use, add a certificate on the title page specifying the number of pages it contains. Such certificate shall be signed and dated by the notary.

(4) The District Judge, or such officer as Government may from time to time appoint in this behalf, may inspect the notarial register at such time, not oftener than twice a year, as the District Judge or the Officer may fix.

(5) District Judge, and Officers appointed by Government under sub-rule (4), shall have power to make a report to Government for taking action against a notary.

(6) When the original instrument is in a language other than English, any noting or protest or entry in his register which has to be made in respect of the instrument by a notary may be made either in that language or in English.

(7) In making presentment of bills or notes, a notary shall observe the provisions of Chapter V of the Negotiable Instrument Act, 1881 (XXVI of 1881).

(8) A notary may, in addition to the functions specified in clauses (a) to (h) of subsection (1) of section 8-

- (a) draw, attest or certify documents, including conveyance of properties, under his official seal;
- (b) note and certify the general transactions relating to negotiable instruments; and
- (c) prepare a will or other testamentary document.

(9) Every notary shall grant a receipt for the fees and charges realized by him, and maintain a register showing all the fees and charges realized.

**13. Seal of notary** Every notary shall use a plain circular seal, bearing, if he had been appointed by name, his name and the name of the area for which he has been appointed to exercise his functions, and the circumscription 'Notary'; and if he has been appointed by virtue of his Office, the name of his office and of the area within which he has been appointed to exercise his functions, and the circumscription 'Notary'.

**14. Inquiry into Allegations of Professional and other misconduct on the part of a Notary.** (1) Whenever there is any allegation of professional or other misconduct on the part of a notary, Government may direct an inquiry to be made by the competent authority into the allegation.

(2) The competent authority, after giving to the person making the allegation as well as to the notary against whom such allegation is made, an opportunity of being heard, and after taking into consideration any evidence, oral and documentary, that may be produced before it, shall make a report to Government.

(3) If Government, after considering the report of the competent authority, is of opinion that action should be taken against the notary, Government may make an order, according to the nature and gravity of the misconduct of the notary proved-

- (a) cancelling the certificate of practice and perpetually debarring the notary from practice ; or
- (b) suspending him from practice for a specified period ;
- (c) letting him off with a warning

**15. Submission of Returns.** Every notary, shall in the first week of January every year, submit to Government an annual return of the notarial work done by him during the preceding year.

**16. Notary to have of office.** Every notary shall have an office within the area mentioned in the certificate issued to him under sub-rule (3) of rule 8 and he shall exhibit in a conspicuous place thereon a board showing his name and his designation as a notary.

**17. Adoption of Forms.** If a notary has to deal with a case which does not in terms attract any of the forms, the notary should adopt the form which, so far as may be meets with the requirements of such case , with such modifications thereto as he thinks the exceptional peculiarities of the case justify.

FORM I TO XIV  
(Not included)

**SECTION-III  
(PETITION WRITERS)**

C.No. 1(5-3)

**LEGAL PROVISIONS REGARDING PETITION-WRITERS**

**Section 14 of the Punjab Courts Act (XVIII of 1884)** (I) The Chief Court may make rules consistent with this Act and any other enactment for the time being in force—

- (a) .....
- (b) declaring what persons shall be permitted to practice as petition-writers in the Courts of the Punjab, regulating the conduct of business by persons so practicing and determining the authority by which breaches of rules under this clause shall be tried;

**Section 20 of W.P Civil Courts Ordinance, 1962, --** The High Court in consultation with the Board of Revenue <sup>1</sup>[Khyber Pakhtunkhwa] may make rules consistent with this Ordinance and any other enactment for the time being in force—

- (a) declaring what persons shall be permitted to act as petition - writers in Courts;
- (b) regulating the issue of licenses to such persons, the conduct of business by them and the scale of fees to be charged by them ; and
- (c) determining the authority by which breaches of such rules shall be investigated and the penalties which may be imposed.

C.No. 2(5-3)

**PETITION WRITERS' RULES**

Rules made by the Chief Court, with the sanction of the Local Government, under the powers conferred by section 14, sub-section (I), clause (b) of the Punjab Courts Act, 1884, as amended, declaring what persons shall be permitted to practice as Petition-Writers in the Courts and Offices in the Punjab, regulating the conduct of persons so practicing, and determining the authority by which breaches of rules shall be tried.

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<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

## RULES

### A. Definitions:

#### I. In these rules:-

‘**petition**’ means a document written for the purpose of being presented to a Court or a Judicial or Revenue Office as such, and includes a plaint and memorandum of appeal;

‘**To Practice as a Petition-Writer**’ means to write petition as defined above, for hire, and extends to the writing of a single petition for hire;

A Petition-Writer is said to practice in a Court when he writes petition for the purpose of being presented to that Court;

‘**Court Subordinate to the Chief Court**’ means all Civil Courts (including Courts of Small Causes) and all Criminal Courts, other than the Chief Court;

‘**Revenue Officer**’ means and includes all persons having authority as Revenue Officers under the Punjab Land Revenue Act, 1887 or the Punjab Tenancy Act, 1887;

‘**Revenue Office**’ means the office of a Revenue Officer;

‘**Revenue Court**’ means and includes all Revenue Officers exercising the jurisdiction described in section 77 of the Punjab Tenancy Act, 1887;

Revenue Officers invested with jurisdiction under chapter XI of the Punjab Land Revenue, 1887 shall be deemed to be subordinate Civil Courts or Revenue Courts according as they are under the control of the Chief Court or of the Financial Commissioner.

### B. Licensing of Petition-Writers:

II. No person shall practice as a Petition-Writer in the Punjab unless he has been duly licensed under these rules provided;

1. That any person licensed under any rule hitherto in force shall be deemed to have been licensed under these rules;

2. That these rules shall not apply to any Advocate, Pleader or Mukhtar, in respect of a petition-written for presentation to a Court in which he is qualified to practice, whether such petition be written by himself or his clerk or on his behalf;

Provided that in the latter case it be signed by the employer;

3. That no petition shall be rejected merely on the ground that it has been written by a person who is not a licensed petition-writers.

**III.** No person shall be licensed as a petition-writer while he is in the service of Government, or of a Native State or of a Legal Practitioner nor shall any person be so licensed within six months of his quitting the service of legal practitioner.

**IV.** Petition-Writers in the Punjab shall be of two grades that is to say:-

- (a) Petition-Writers of the first grade, who may practice petition-writing in the Chief Court and all Courts subordinate thereto, and in the Court and Office of the Financial Commissioner and all Revenue Courts and Offices under the control of the Financial Commissioner.
- (b) Petition-Writers of the second grade who may practice petition-writing on the original side of the Courts of only District Magistrate, Collectors and District Judges, and in Criminal, Civil or Revenue Courts and Offices of equal or inferior jurisdiction.
- (c) The number of licenses of each grade shall be in accordance with the scale fixed by the Chief Court from time to time for each District.

**V.** Any person, above the age of twenty years who has passed the Matric<sup>1</sup> School Examination or any recognized examination equivalent thereto, and who has not during the preceding six months followed the “Calling of Clerk to a Legal Practitioner” may apply to the District Judge of the District in which he resides or desires to practice for admission to the special examination hereinafter provided.

**VI.** The application shall be written by the applicant with his own hand, and presented by him in person and shall state:-

- (a) the applicant’s name; father’s name; date of birth according to English Calendar; caste; residence, and present occupation (if any);
- (b) the names of two persons of respectability to whom reference may be made as to the applicant’s character, should the certificates presented with the application be deemed insufficient;
- (c) Whether he is a candidate for a first grade or a second grade license.
- (d) Whether he has, during the next six months preceding the date of the application, followed the calling of clerk to a Legal Practitioner.

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<sup>1</sup> The word “Entrance” is substituted with the word “Matric” vide Endst: No.6260-84/Admn dated 18<sup>th</sup> September, 2001.

**VII** The application shall be accompanied by certificates of character and satisfactory evidence that the applicant has passed one of the examinations referred to in rule V. If the applicant has been convicted of a criminal offence, or removed from Government service, this shall be stated in the application. If the applicant is in the service of Government or of a Legal Practitioner, his application shall state that he is prepared to resign such service on being licensed as a Petition-Writer.

The District Judge to whom the application is made may in his discretion, on being satisfied (a) that the applicant is over twenty years of age, (b) that he is of good character, and (c) that he has passed the educational test required by rule V, and that he is not disqualified under these rules, pass an order admitting him, subject to payment of a fee of <sup>1</sup>[Rs. 200], to the examination provided for in the rule next following. The name of the applicant shall thereupon be entered by the District Judge in a register maintained for the purpose.

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 E. Candidates who succeed in passing the examination for a second grade license shall be required to pay another fee if they wish to appear at any examination and wish to appear again at any subsequent examination shall be required to pay a fee for such further appearance.

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**VIII.** (I) Whenever in any District, in consequence of the number of Petition-Writers having fallen below the prescribed scale, the District Judge considers this necessary, he may with the previous sanction of the Divisional Judge, hold an examination as hereinafter provided.

(II) Candidates will be examined in the following subjects, or such other subjects as the Chief Court may, from time to time, notify in the Punjab Gazette:-

(1). Subjects will be given at the time of the examination for (1) a plaint, (2) a criminal complaint (3) one or more miscellaneous petitions, and (4) for candidates for the first grade, a petition of appeal. C.S. No. 54 of 21/05/1909

(2). The candidate will be examined in chapters II, III, IV, V, VIII and XVII of the Indian Penal Code; in sections 38, 39, 40 to 45, 48 to 50 and Order No. XXI, rules 4 to 10 and 11(2) to 16, 21, and 66; Order XXXIII, Rules 1 to 16; Order XXXII, Section 88, and Order XXXV, section 95; Order XXXVIII 2<sup>nd</sup> schedule, section 114 and Order XLVII, 1<sup>st</sup> Schedule (and for candidates for 1<sup>st</sup> grade, section 96 (1) (2), Section 98,99, 107(2), 144(1)

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<sup>1</sup> Substituted vide PHC Notification No. 121-J Dated 26.08.2004

Order XLI and Rule 11 of Order XXII, Sections 104 to 106, 108, Rules 1 and 2 of Order XLIII, and Rules 1 and 2 of Order XLIV, inclusive, of the Code of Civil Procedure (Act V, of 1908) so far as they relate to the drawing up of plaints and other documents for presentation in Court in Chapter and [Khyber Pakhtunkhwa]<sup>1</sup>, Tenancy Act, 1950 and Chapter West Pakistan Land Revenue Act and in the Court Fees Act, General Stamp Act, and the Indian Limitation Act, so far as a knowledge of these Acts is necessary for the efficient performance of the duties of Petition Writer.

**(III).** No candidate will be accepted unless he obtains 33 percent marks in each subject and 50 percent on the combined total.

**(IV).** The examination will be held in the month of September.

**IX.** The examination shall be conducted by a Board of such officer as the District Judge may appoint for the purpose, presided over by an officer of not lower standing than an Extra Assistant Commissioner, in such manner as the Chief Court may, from time to time, prescribe

**X.** The result of the examination shall be reported to the District Judge who shall decide what candidates have passed, and submit a statement of their names to the Divisional Judge to be forwarded to the Chief Court.

**XI.** The Chief Court will determine what candidate shall be accepted as Petition Writers of either grade, and the Divisional Judge or the District Judge, according as the license to be granted is of the first or second grade, will be authorized to grant to each accepted candidate a license in the Form A annexed to these rules.

A fee of <sup>2</sup>[Rs. 500/-] shall be charged for a license of the first grade, and a fee of <sup>3</sup>[Rs.200/-] for a license of the second grade.

Such license will be valid only up to the 31<sup>st</sup> day of August in each year and will be renewable between the 1<sup>st</sup> and 31<sup>st</sup> day of August on payment of a renewal fee of <sup>4</sup>[Rs.100].

**XII.** The Chief Court may by order.

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<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>2</sup> Substituted vide PHC Notification No. 121 dated 26.08.2004

<sup>3</sup> Substituted vide PHC Notification No. 121 dated 26.08.2004

<sup>4</sup> Substituted vide PHC Notification No. 121 dated 26.08.2004



(1) Admit to either grade any person who has not qualified as required by these rules;

A fee of <sup>1</sup>[Rs.200/-] shall be charged for a license of the first grade, and a fee of <sup>2</sup>[Rs.100] for a license of the second grade.

(2) Promote a Petition Writer of the second grade to the first grade.

**XIII.** A license granted to a Petition Writer under these rules authorize him to practice, subject to these rules, according to its tenor and continues in force until.—

(1) in the case of a second grade license, it is superseded by a first grade license;

(2) its operation is suspended by an order made under rule XIV, or the Petition-Writer enters the service of Government or of a legal Practitioner;

(3) the Petition-Writer is suspended or dismissed by competent authority.

**XIV.** (i) Every licensed Petition Writer shall, between the first and thirty first days of August of each year, produce, or, if he ordinarily practices in an inferior Court, forward through that Court, his license for the inspection of the Court under which it is held. A note of such production, with the date, will be entered on the license. If a Petition-Writer fails to comply with this rule, his name will be posted in a conspicuous place of the Courthouse of the highest Court in which he ordinarily practices, with an order that the operation of his license is suspended, and that he will be liable to penalties if found practicing whilst such order of suspension is in force.

(ii) If the Petition Writer produces his license for inspection at any time before the thirty-first day of August of the following year, the order of suspension may be withdrawn, subject to a charge of <sup>3</sup>[rupees two hundred]; provided, that the charge shall not be made if it be shown to the satisfaction of the Court that the failure to produce the license within the time appointed was due to unavoidable causes, and that the license shall not be restored without the previous sanction of the Chief Court.

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<sup>1</sup> Substituted vide PHC Notification No. 121 dated 26.08.2004

<sup>2</sup> Substituted vide PHC Notification No. 121 dated 26.08.2004

<sup>3</sup> Substituted vide PHC Notification No. 121 dated 26.08.2004

**XV.** When a licensed Petition Writer is promoted from the second to the first grade, a first grade license will be granted to him by the Divisional Judge upon surrender of his second grade license and payment of <sup>1</sup>[rupees two hundred] to make up the full sum required for a first grade license.

**XVI.** No licensed Petition Writer shall transfer his place of business from anyone to any other district in the Punjab. But it shall be within the discretion of the District Judge to transfer any Petition Writer from anyone place to any other within his district and it shall be in the power of the Divisional Judge to transfer any Petition Writer from anyone district to any other in his Division.

**XVII.** If a licensed Petition-Writer loses the license granted to him under these rules he may apply to the Court under which it was held for a duplicate license. The application shall be made in writing, and shall be presented by the applicant in person. The Court to which it is made, if satisfied that the former license has been lost, shall, upon payment by the applicant of <sup>2</sup>[rupees two hundred], cause a fresh license to be issued in the same form and bearing the same date as the lost license, and shall cause the words “duplicate license” to be enfacend thereon, with the date of issue, and shall sign such enfacement. Every matter required to be noted upon the license by rules XIV, XXXII (ii), XXXV(ii) or rule XXXIX shall be written on the back of the duplicate license under the signature of the Court granting it.\*

### **C. Conduct of Petition-Writers.**

**XVIII.** Every Petition Writer, licensed under the foregoing rules, shall kept up a register, in the Form B annexed to these rule, and shall enter therein every petition written by him, and shall produce the register for the inspection of any Court or Judicial or Revenue Officer demanding it.

**XIX.** Every licensed Petition-Writer shall, at his own expense, provide himself with an official seal, to be made under the direction of the Court which licenses him, on which shall be engraved, in the Urdu character, his name and the year in which he was licensed.

**XX.** Every licensed Petition-Writer in writing petitions shall confine himself to expressing in plain and simple language, such as the petitioner can understand, and in a concise and proper form, the statements and objects of the petitioner; and shall not introduce any argument or quotation from a Law

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<sup>1</sup> Substituted vide PHC Notification No. 121 dated 26.08.2004

<sup>2</sup> Substituted vide PHC Notification No. 121 dated 26.08.2004

\* If a license becomes damaged it may be replaced in the manner here provided in the case of the license being lost

Report or other Law book or refer to any decision not brought to his notice by.

**XXI.** Every licensed Petition-Writer shall record, at the foot of every petition written by him, other than a petition of a merely formal character, a declaration under his signature that, to the best of his knowledge and belief, the petition expresses the true meaning of the petitioner and that its contents have been fully explained to the petitioner.

**XXII.** Every licensed Petition-Writer shall sign and seal with his official seal, every petition written by him, and shall enter on it the number which it bears in his register, and the fee which has been charged for writing it.

**XXIII.** A licensed Petition-Writer shall not dictate a petition to, or cause a petition to be written by, a person who is not a licensed Petition-Writer; nor shall he employ any person who is not a licensed Petition-Writer to write petitions for him.

**XXIV.** Every licensed Petition-Writer shall rewrite at his own cost any petition written by himself when required to do so by order of competent authority.

**XXV.** A licensed petition-writer shall not instigate any person to cause to be written by himself, or by any other licensed Petition-Writer, any petition which he knows to be unnecessary.

**XXV-A.** A licensed Petition-Writer shall not write or cause to be written, any petition on behalf of any party, if he has already written a petition in regard to the same subject matter or proceeding for any opposing party.

**XXVI.(i)** Subject to the provisions of Rules XXX, every licensed Petition-Writer may make his own terms with his employer as to the remuneration to be paid for his services; Provided, that he enters correctly the actual amount agreed upon on the petition, and in the proper column of his register.

- (ii) A licensed Petition-Writer shall not take payment for his services by an interest in the result of any litigation in connection with which he is employed, or shall find, or contribute towards, the funds employed, in carrying on any litigation in which he is not otherwise personally interested.

**XXVII.** A licensed Petition-Writer shall not act as a recognized agent in any case in a Civil Court or in a Revenue Court or Office (except a case in which he is himself a party) or in a Criminal Court or (subject to the same exception) shall accept any Mukhtarnama, whether General or special, authorizing him to act as a recognized agent in a Civil Court or in a Revenue Court or Office.

**XXVIII.** Every licensed Petition-Writer:-

- (1) the operation of whose license is suspended under rule XIV;
- (2) who enters the service of Government, of a Native State, or of a Legal Practitioner; or (C.S No. 18).
- (3) Who is suspended or dismissed under these rules shall forthwith surrender his license to the Court under which it was held.

**XXVIII-A.** Every Petition-Writer who gives up practicing for over three years shall have his name struck off the register.

**Note:** A Petition-Writer whose name has been removed after three years absence will be at liberty to apply for the restoration of his licenses; provided that there is a vacancy on the prescribed scale. He shall, however, be treated in this respect on the same footing as a fresh applicant.

**XXIX.** No licensed Petition-Writer shall practice:

- (1) contrary to the terms of his license;
- (2) in any Court or Office in which he has been forbidden to practice, while such prohibition is in force;
- (3) after his license should have been or has been surrendered under these rules; or
- (4) while under suspension.

#### **D. Procedure in dealing with breaches of Rules and Penalties**

**XXX.** Any Judicial or Revenue Officer Court who, upon the representation of any person employing a Petition-Writer, after hearing such Petition-Writer (if he desires to be so heard finds that the fee charged for writing a petition presented in his office or Court was excessive, may, by order in writing, reduce the same to such sum as appears to be, under the circumstances, reasonable and proper, and may require the Petition-Writer to refund the amount received in excess of such sum. An order passed under this rule shall not be revised, except by the Officer or Court who made it.

**XXXI.** Any Judicial or Revenue Officer or Court may order a licensed Petition-Writer to rewrite any petition written by him which contravenes rule XX, or is illegible, obscure or prolix or contains any irrelevant matter or misquotation, or is from any other cause, in the opinion of such officer or Court informal or otherwise objectionable, an order passed under this rule shall not be open to revision by any Officer or Court other than the Officer or Court which made the order.

**XXXII.** (i) The presiding officer of any Court (other than the Chief Court) or of any office may for any sufficient cause to be recorded in writing under his signature, prohibit any Petition-Writer from practicing in his Court or Office, pending a reference where the prohibition is issued by the Financial Commissioner, to the Chief Court and in any other case, to the Court under which such Petition-Writer holds his license.

- (ii) Every order of prohibition passed under this rule shall be communicated to the Court under which the Petition-Writer affected holds his license and such court shall forthwith endorse the substance and date of the order on the license under his own signature.

**XXXIII.** Any person who breaks rule II is liable to a penalty not exceeding <sup>1</sup>[rupees five hundred], under section 14 sub-section (3) of the Punjab Court Act, 1884, as amended.

**XXXIV.** Any licensed Petition-Writer who breaks any of the rules numbered XVIII, XIX, XXI, XXII, XXIII, XXV, XXV-A, XXVI, XXVIII and XXIX, is liable to a penalty not exceeding <sup>2</sup>[rupees five hundred], under section 14, sub-section (3) of the Punjab Courts Act, 1884 as amended and shall also be liable to be suspended, dismissed or reduced under the next rule.

**XXXV.** (i) Any licensed Petition-Writer who:

- (1) habitually writes petitions contrary to rule XX, or containing irrelevant matter, or which are informal or otherwise objectionable; or
- (2) in the course of his business as a Petition-Writer uses disrespectful, insulting or abusing language; or

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<sup>1</sup> Substituted vide PHC Notification No. 121 dated 26.08.2004

<sup>2</sup> Substituted vide PHC Notification No. 121 dated 26.08.2004

(3) is found to be incapable of efficiently discharging the functions of a Petition-Writer; or

(4) by reason of any fraudulent in the discharge of his duty as a Petition-Writer is found to be unfit to practice as such; or

(5) is convicted of a criminal offence; may be suspended or dismissed; or, if he is a petition-writer of the first grade, be reduced to the second grade, in addition to any punishment to which he may be liable under section 14, sub-section (3) of the Punjab Courts Act, 1884, as amended or any other enactment for the time being in force.

(ii) Every final order passed under this rule shall be communicated to the Court under which the Petition-Writer affected holds his license, and such Court shall forthwith endorse the substance and date of the order on the license under his own signature.

**XXXVI.** (i) Breaches of rule XXXV or of any other rule regulating the conduct of business by licensed Petition-Writers, specified in rule XXXIV shall be cognizable by the Court under which the Petition-Writer holds his license at the time of trial.

(ii) Breaches of rule II shall be cognizable by the District Judge of the District in which the alleged breach occurred.

**XXXVII.** In order imposing a penalty for any beach of rule mentioned in rule XXXVI clauses (i) and (ii) may be made by the officer taking cognizance thereof, after such inquiry as he thinks fit;

Provided, that no order shall be made under this rule unless the person charged shall have had an opportunity of defending himself.

**XXXVIII.** Notwithstanding anything herein before contained, the Chief Court may, for any sufficient cause, to be recorded in writing, and after such inquiry as it thinks fit.

(1) dismiss any licensed Petition-Writer, or suspend him from practice for a specified period; and

(2) in the case of a licensed Petition-Writer of the first grade.--

- (a) suspend him from practice in the Chief Court for a specified period.
- (b) reduce him to the second grade;

Provided that no order shall be made under this rule unless the person charged shall have had an opportunity of defending himself.

**XXXIX.** Any order, other than an order of dismissal, made and any caution given instead of penalty, by a court after an inquiry under rule XXXVII or rule XXXVIII, shall be noted on the back of the Petition-Writer's license by the Court passing the order, or under its direction.

**XL .** (i) No appeal shall lie from any order passed by any Court or officer under any of the preceding rules; but the Chief Court, as regards orders passed under rule XXXVII by any District Judge, or any Divisional Judge, and the subordinate to it, may in its discretion revise any such order, and in place thereof pass such order as it thinks fit.

- (ii) No Petition-Writer who has been suspended or dismissed for misconduct can claim to be heard through counsel.

**XLI.** The Chief Court may at any time, for sufficient reason, grant a new license to any licensed Petition Writer who has been dismissed, or direct that any license of which the operation has been suspended by an order under rules XIV, XXXV or XXXVIII, or by the Petition Writer entering the service of Government or of a legal Practitioner, be restored to him.

**XLII.** Nothing in the foregoing rules shall be deemed to limit or restrict the exercise by the Chief Court of its general powers of superintendence and control.

**Schedule of rules, the breaches of which renders the offender liable to fine under section 14, sub-section (3) of the Punjab Courts Act, 1884, as amended.**

**A. Un-Licensed Persons:**

Practicing as a Petition-Writer without a License..... Rule II.

**B. Licensed Petition-Writers:**

Practicing in a higher grade than that for which licensed-----IV

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Omitting to maintain prescribed register on to produce it when required-----	XVIII
Omitting to provide seal-----	XIX
Omitting to record declaration on petition-----	XXI
Omitting to sign, seal or give other particulars required on a petition --	XXII
Omitting to make true entry on petition or in register-----	XXII
Causing petition to be written by unlicensed person-----	XXVII
Instigating the writing of unnecessary petitions-----	XXV
Omitting to enter correctly the actual amount of remuneration agreed upon, on the petition and in register. Taking payment by an interest in the result of litigation-----	XXVI
Acting as recognized agent for any party-----	XXVII
Omitting to surrender license-----	XXVIII
Practicing while under suspension or while license is surrendered-----	XXIX
Disregarding prohibition from practice, pending reference-----	XXXII
Omitting to comply with an order made under rule-----	XXXI
Violation of rule, habitual writing of irrelevant or informal or otherwise objectionable petitions-----	XXXV
Fraudulent or improper conduct in discharging of duty-----	XXXV



**FORM A (RULE XI)**

## FORM OF LICENSE

In the court of the \_\_\_\_\_ Judge of the \_\_\_\_\_

Certified that \_\_\_\_\_ son of \_\_\_\_\_

resident of \_\_\_\_\_

has this day been licensed as a Petition-Writer of the \_\_\_\_\_ grade, and is hereby permitted to practice as such in the manner prescribed by rule IV, clause \_\_\_\_\_ of the rules relating to Petition-Writers in the Punjab and subject to the provisions of the said rule.

Given under my hand and the seal of this Court. This day of 20\_\_\_\_ at \_\_\_\_\_.

\_\_\_\_\_ Seal Judge

## Form B (Rule XVIII)

Register to be maintained by every licensed petition-writer

Serial No of petition	Date on which petition was written	Name, Parentage, caste, and residence of the person at whose instance the petition was written	Description of petition	Brief abstract of petition	Value of court fee labels affixed to the petition	Fee charged for writing the petition		Signature of petition-writer
1	2	3	4	5	6	7	8	9

**FORM III (PARAGRAPH 14)**

Annual Return of licensed Petition-Writer whose names are borne on the Register of the \_\_\_\_\_ on the 1<sup>st</sup> September, 20\_\_\_\_.

Sr. No	Number in Register	Name of Licensed Petition Writer	Father's Name	Grade of License	Date of License	Date of production of license for annual inspection	Remarks
1	2	3	4	5	6	7	8

C.No. 3(5-3)

**AMENDMENTS IN PETITION WRITERS' RULES**  
*PESHAWAR HIGH COURT, PESHAWAR*

**NOTIFICATION**

Dated Peshawar, the 26<sup>th</sup> August, 2004

No.121-J In exercise of the powers conferred by section 20 of the West Pakistan Civil Courts Ordinance 1962, the Chief Justice and Judges of the Peshawar High Court, Peshawar, in consultation with the Board of Revenue NWFP, are pleased to make the following amendments in the Petition Writers Rules made under the powers conferred by section 14 sub-section (I) clause (b) of the Punjab Courts Act, 1884.

**Amendments**

1. In VII(c) for the words and figure "Rs. 5" the words and figure "Rs.200" shall be substituted.
2. In rules XI for the words and figure "Rs.50" the words and figure "Rs.500" and for the words and figure "Rs.25" the words and figure "Rs.250" and for the words and figure "Rs.5" the words and figure "Rs.100" shall be substituted.
3. In rule XII(1) for the words and figure "Rs.10" the words and figure "Rs.200" and for the words and figure "Rs.5" the words and figure "Rs.100" shall be substituted.

4. In rule XIV(ii) for the words “rupees five” the words “rupees two hundred” shall be substituted.
5. In rule XV for the words “rupees five” the words “rupees two hundred” shall be substituted.
6. In rule XVII for the words “rupees five” the words “rupees two hundred” shall be substituted.
7. In rule XXXIII for the words “rupees fifty” the words “rupees five hundred” shall be substituted.
8. In rule XXXIV for the words “rupees fifty” the words “rupees five hundred” shall be substituted.

C.No. 4(5-3)

**SECTION 14 OF THE PUNJAB COURTS ACT (XVIII OF 1884),-- (1)**

(2).....

- (3) Whoever breaks any rule made under clause (b) shall be punished with a fine which may extend to fifty rupees.

**SECTION-IV**  
**ANCILLARY INSTRUCTIONS REGARDING**  
**OATH COMMISSIONERS, NOTARIES AND PETITION WRITERS**

C.No. 1(5-4)

**UNAUTHORIZED ATTESTATION OF AFFIDAVITS BY OATH COMMISSIONERS IN CRIMINAL MATTERS**

I am directed to address you on the subject and to say that Hon'ble the Chief Justice of this Court, while disposing of criminal petitions, noticed that Oath-Commissioners appointed by this court under section 139(b) of the Code of Civil Procedure, 1908 for administering oaths and affirmation to the deponent and attestation thereof, also attest affidavits in criminal matters. This practice is absolutely illegal and unauthorized and need to be stopped forthwith. These oath-commissioners, having not been authorized by this court for administering oath, affirmation and attesting affidavits u/s 539 Code of the Criminal Procedure, 1898, shall be restrained from attestation of the affidavits. The courts referred to in this section shall on the contrary, continue to do the needful in accordance with law and the established procedure. The institution of the oath-commissioners, this court is constrained to say, cannot be allowed to betray faith of the public litigants up till now reposed in the judiciary.

Pursuant to the above and order of the Hon'ble Chief Justice of this Court you are requested to direct all the oath-commissioners working under your administrative control not to attest affidavits in criminal matters in future and cases of lapse on their parts shall be referred to this court for cancellation of their appointment orders as oath-commissioners.

(PHC letter No. 9784-9854 / Dated 22 October, 1984.)

C.No. 2(5-4)

**UNAUTHORIZED ATTESTATION OF AFFIDAVITS BY OATH COMMISSIONERS IN CRIMINAL MATTERS**

In continuation of this courts No. 9784-9854 / Admn: Brh: Dated:- 22/10/1984, I am directed to say that Hon'ble the Chief Justice of this Court has been pleased to order, for public convenience, that all the Oath Commissioners appointed by this court under section 139 (b) C.P.C. 1908, are also hereby authorized to attest the affidavits in the matters of only bail before arrest applications.

Please bring these instructions to the notice of all the Oath Commissioners working under your administrative control.  
This is issued under section 539 Code of the Criminal Procedure, 1898.

(PHC letter No:- 10329-98 Dated:- 30/10/1984)

C.No. 3(5-4)

### **INSTRUCTIONS REGARDING PETITION WRITERS**

I am directed to say that the Petition Writers do not follow the relevant Rules issued by this court from time to time. Hon'ble the Administration Judge of this Court has, therefore, been pleased to observe that all the District and Sessions Judges in the N.W.F.P., should keep watch on the Petition Writers working in their respective Districts. They should check the Registers maintained by the Petition Writers periodically and send their reports for the perusal of this Court. The Petition Writers should also be advised to charge a normal fee from the litigant public for writing the deeds / Petitions etc., and also enter the fee charged by them in the relevant registers as well as on the top of the petitions.

I am further to enclose herewith a copy of the Petition Writer's Rules with directions that the procedure contained therein and the instructions highlighted above should be brought to the notice of all the Petition Writers for strict compliance. Any Petition Writer who fails to comply with these instructions shall expose himself to strict disciplinary action liable to cancellation of license.

(PHC letter No. 6261-6275 / Admn: Brh: Dated 31<sup>st</sup> August, 1991)

C.No. 4(5-4)

### **INSTRUCTIONS REGARDING OATH COMMISSIONERS**

I am directed to say that the Oath Commissioners do not follow the Rules prescribed in the High Court Rules and Orders Vol-IV and instructions issued by this Court from time to time. According to the relevant Rules all Oath Commissioners shall keep a Register in the prescribed form (copy attached) in which all affidavits attested by them shall be entered. A written receipt for the amount paid shall be given by them to the deponent of the affidavit. The receipt shall be in the printed form consisting of the foil and a counterfoil, the foil being handed over to the person paying the money and the counterfoil to be kept for inspection.

Hon'ble the Administration Judge of this Court has, therefore, been pleased to observe that all the District and Sessions Judges in the NWFP, should keep watch on the Oath Commissioners working in their respective Districts. They should check the Registers maintained by the Oath Commissioners periodically and send their reports for the perusal of this Court. The Oath Commissioners should also be advised to charge the prescribed fee of Rs 5/ from the litigant public for affidavit attested by them.

I am, therefore, to request that the instructions highlighted above should be brought to the notice of all the Oath Commissioner for strict compliance both verbally in discussion and in writing. Any Oath Commissioner who fails to comply with these instructions shall expose himself to strict disciplinary action liable to cancellation of license.

(PHC letter No. 8360-8374/Admn:Brh: Dated Pesh: the 25<sup>th</sup> Nov., 1991)

C.No. 5(5-4)

### **INSTRUCTIONS REGARDING OATH COMMISSIONERS AND NOTARY PUBLIC**

It has been noted with concern that the Oath Commissioners and Notary Public do not follow the Rules as are available in the High Court Rules and Orders Vol. IV and instructions issued by this Court from time to time. It has been reported that the Oath Commissioners / Notary Public are not maintaining the prescribed registers in which all the affidavits attested by them should be entered and that they do not issue the required receipt for the amount received by them from the deponents. Besides, it is also reported that the Oath Commissioners / Notary Public charge higher fee than the prescribed fee.

I am, therefore, directed to say that all the Oath Commissioners / Notary Public should be directed to keep the relevant registers in which all the affidavits attested by them shall be entered: that written receipt for the amount received by them shall be given to the deponents on printed form consisting of foil and counterfoil: that the foil shall be handed over to the person paying the fee and the counterfoil should be kept for record and inspection. Moreover, they should charge the prescribed fee for each affidavit and should fix a board indicating such fee to be charged by them for an affidavit.

Hon'ble the Chief Justice has further been pleased to observe that all the District and Sessions Judges in the N.W.F.P., should keep a strict watch

on all Oath Commissioners / Notary Public working in their respective Districts and check the boards so fixed by the Oath Commissioner / Notary Public , and to send the compliance report to this Court.

I am, therefore, to request that the instructions highlighted above should be brought to the notice of all Oath Commissioners / Notary Public for a strict compliance both verbally and in writing, and who so ever fail to comply with these instructions shall expose himself to the strict disciplinary action including cancellation of license.

(PHC letter No. 5329-5345 / Admn: Brh: Dated 29<sup>th</sup> August, 1992)

C.No. 6(5-4)

### **APPOINTMENT OF OATH COMMISIONERS**

I am directed to address you on the subject noted above and to say that it has brought to the notice of this Court that while filling up the post of Oath Commissioners some of the District and Sessions Judges send the name of a single person or send application of the candidate for consideration. I am, therefore, to request to refrain from sending single name and ensure submission of panel of three qualified lawyer against one post.

(PHC letter No.9958-9977/ Admn.Brh.Dated Pesh: the 13<sup>th</sup> Nov., 1994)

C.No. 7(5-4)

### **MAL-PRACTICES BY OATH COMMISSIONERS, NOTARY PUBLICS, PETITION WRITERS AND DEED WRITERS**

I am directed by the Hon'ble Chief Justice to address you on the subject noted above and to say that complaints are pouring in showing instances of over-charging and touting by the Oath Commissioners/Notary Publics/Petition Writers/Deed Writers in violation of the relevant rules and in contravention of instructions on the subject issued by this Court from time to time.

It is generally observed that in spite of clear rules and instructions, the Oath Commissioners and Petition Writers are not maintaining registers on the prescribed forms wherein they are required to enter the Affidavits attested and the petitions written by them. Likewise, the Oath Commissioners are not issuing written receipt for the amount paid to them, although they are obliged under Rule 5(iii) of Chapter 12-B of the High Court Rules and Orders Vol: IV, to keep receipts in a printed form consisting of foil and counterfoil and

hand-over foil to the person paying the money and keep the counterfoil for the purpose of inspection.

I am, therefore, to issue directions that a vigilant eye be kept on the activities of the Oath Commissioners/Notary Publics/Petition Writers by regular as well as surprise inspection of the Registers and counterfoils and furnish the inspection reports to the Member Inspection Team of this Court for strict disciplinary action including cancellation of Licenses in appropriate cases of over-charging and other violations of Rules and Instructions of this Court.

(PHC letter No. 6757-78 Dated Peshawar the 26.8.2000)

C.No. **8**(5-4)

### **GRANT OF PETITION WRITERS' LICENCES TO UNQUALIFIED PERSONS**

I am directed to say that the Hon'ble Administration Judge of this Court has been pleased to order that in future applications of unqualified persons who have not passed the prescribed examination of Petition Writers may not be sent to this Court for the grant of such licenses as a special case.

(PHC letter No.1276-98/ Dated Peshawar the 18/2/2002)

C.No. **9**(5-4)

### **STREAMLINING THE AFFAIRS OF PETITION WRITERS**

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice, during his recent visits to various districts, has been pleased to observe that the affairs of the Petition Writers are not properly dealt with by the District Judges in accordance with the Rules applicable to them, resulting in mismanagement, the ultimate sufferers whereof being the litigant public.

It is, therefore, desired by Hon'ble the Chief Justice to get the matter streamlined by taking appropriate steps in accordance with the Rules framed by the Chief Court under section 14 subsection ( I ), clause (b) of the Punjab Courts Act, 1884. These steps, inter alia, include the annual inspection of the license of petition writers under Rule XIV, keeping a watch on the conduct of petition writers, especially the amount of fee charged, as set forth in Part C and then to exercise the powers conferred under Part D thereof.

(PHC letter No. 4682-4705 Dated 28.04.2004)



C.No. **10**(5-4)

**RENEWAL OF PETITION WRITERS' LICENSE**

I am directed to refer to the subject noted above and to say that Hon'ble Administration Judge of this Court while taking serious notice of the escalating trend of non-renewal of Petition Writer's licenses, has been pleased to order that proper notice be circulated to the Petition Writers, requiring them to apply for renewal well in time.

His Lordship has further been pleased to desire that the consequences of non-compliance of such notice be also explained to the Petitioner Writers accordingly.

(PHC letter No. 12199-12222/ Admn: Dated Peshawar the 27-10-04)

C.No. **11**(5-4)

**AFFAIRS OF PETITION WRITERS / DEED WRITERS**

I am directed to refer to the subject noted above and to say that it has been noticed by this Court that the registers of petition writers are not maintained in the prescribed form nor any inspection of the registers is made by the courts. Resulting in back date writing of petitions etc.

You are therefore requested to depute a judicial officer, subordinate to you, for streamlining the record of the petition writers. Such judicial officers shall give page number to all the pages and initial each page of the register on every third day of the week by ensuring that no column or space is left blank and that the register is maintained in the prescribed form.

You are also requested to coordinate with the district officer revenue / district coordination officer for getting record of the deed writers streamlined in line with the record of the petition writers detailed above so that the chances of back date writing of all types of conveyances be curbed & ruled out, please.

(PHC Letter No. 6040-63/Admn, dated Peshawar the 18<sup>th</sup> May, 2011)

C.No. **12**(5-4)

**APPOINTMENT AS OATH COMMISSIONER.**

I am directed to refer to the subject noted above and to say that under the rules, an advocate who intends to be appointed as oath commissioner has to apply directly to this court independently without any

recommendations of the lower Judiciary or the Bar Associations. Therefore, such applications, submitted to your good-self, shall be returned to the applicant with the directions to submit application in individual capacity directly to the undersigned.

I am further directed to request you to forward the detail of oath Commissioners of your respective Divisional/Districts Headquarters and Sub-divisions on the enclosed proforma at the earliest, please.

(PHC Letter No. H(a)19-B. 14568-91 Dated 13<sup>th</sup> December, 2013)

C.No. **13**(5-4)

### **APPOINTMENT AS OATH COMMISSIONER**

In continuation of this Court's letter No. 9958-9977/Admn dated 13<sup>th</sup> November, 1994 and supersession of this Court letter No. H(a)19-B/14568-91/Admn dated 13-12-2013 on the subject noted above, I am directed to say that, while filling up the post of oath Commissioners, the name of a single person or application of the candidate for consideration for the post of oath Commissioner may not be sent to this Court but to ensure submission a panel of three qualified lawyers against one post with your comments, in future, please.

(PHC Letter No.16820-44/Admn Dated 29<sup>th</sup> December, 2014)

C.No. **14**(5-4)

### **APPOINTMENT AS OATH COMMISSIONER.**

In continuation of this Court's letter No. 16820-44/Admn: & Endst No16845-71/Admn dated 29.12.2014, the Competent Authority has been pleased to direct that henceforth an Advocate desiring to become an Oath Commissioner, may forward his application through the President of the District/Tehsil Bar Association to the District & Sessions Judge concerned, who while forwarding application to this court shall report about the availability of vacancy and fitness of the application as required under the rules.

(PHC Letter. 497-570/Admn Dated 21<sup>st</sup> January, 2015)

C.No. **15**(5-4)

**APPOINTMENT AS OATH COMMISSIONER.**

I am directed to re-invite your attention to this Court's circular letter NO. 497-570/Admn: dated 21.01.2015 (copy enclosed) and to say that it has been noticed with great concern that the subject applications are being forwarded without your specific opinion and fitness aspect of the applicant.

You are, therefore, asked that while forwarding the subject application, you report must refer to the availability of vacancy and fitness report in conformity with the quoted rule, please.

“(II) Such Commissioners are ordinarily appointed from among legal practitioners of not less than three year's standing at the Bar. They may continue as such until the expiry of thirteen years reckoned from the date of first admission as a legal practitioner, provided that their work is satisfactory, or until the further orders of the High Court, whichever is earlier.”

(PHC Letter. H(a)19-B/5625-49/Admn, Dated 02<sup>nd</sup> March, 2015)

C.No. **16**(5-4)

**LEGAL ACTION AGAINST UNAUTHORIZED OATH COMMISSIONERS.**

The Hon'ble Senior Puisne Judge of this Court has directed to ensure that no unauthorized person acts as Oath Commissioner within your respective jurisdiction/Session Division.

Action shall be taken against unlicensed person using such authority and criminal cases be registered against them under intimation to this Court, please.

(PHC Letter No. 4478-4502/Admn Dated 24<sup>th</sup> March, 2018)

C.No. **17**(5-4)

**EXAMINATION OF PETITION WRITERS**

I am directed to refer to the subject noted above and to say that the Competent Authority has been pleased to direct that the examination for grant

of license of petition writers be conducted in the month of September, as so provided in Rule-VIII (IV) of Petition Writer Rules.

(PHC Letter No.SDJ/PHC/REG/64-V-II-(1-34)5185-5218 Dated 14<sup>th</sup> September 2019)

C.No. **18**(5-4)

### **EXAMINATION OF PETITION WRITERS**

I am directed to refer to the subject noted above and to say that the Competent Authority has been pleased to approve and direct as under;

- The scale of Petition Writers prescribed through standing order No.8842-8865/Admn.Brh, dated 08<sup>th</sup> December, 1996 (Sixteen (16) positions of Grade-I and 30 of Grade-II) shall be the same for the newly notified and merged Districts of the province.
- The place of sitting of the licensed petition Writers i.e. headquarter or sub division shall be determined by the District and Sessions Judge concerned, as per circumstances.
- Applications for grant of licenses shall be invited through advertisement in newspaper of wide circulation in the respective District.
- Considering hardships being faced in the newly Districts, Rule-VIII (IV) of Petition Writers Rules is relaxed for the time being subject to the condition that the process of examination shall be completed in the next two (02) month.

(PHC letter No. SDJ/PHC/REG/98-V.II-(1-34)/6377-410 Dated 07<sup>th</sup> November, 2019)

C.No. **19**(5-4)

### **STREAMLINING BUSINESS OF STAMP VENDORS AND DEED WRITERS**

I am directed to convey that for streamlining the affairs of stamp vendors and Deed Writers, a committee shall be constituted headed by a Judicial Officer and consisting of representatives of the bar Association, bar council (if available) D.C/Collector, sub-registrar, Treasurer, stamp Vendors and Deed Writers as its members. The said committee shall oversee and supervise working of stamp vendors and Deed Writers both at district

headquarter and tehsil level and shall ensure, inter alia, adherence to the annexed guidelines regarding stamp vendors and Deed Writer respectively.

(Letter No. 3285-319/PHC/Admn Dated 21<sup>st</sup> February, 2020)

### **GUIDELINES FOR DEED/CONVEYANCE WRITERS**

- A person carrying on business as Deed Writer must have a valid license/permit for such purpose.
- A person permitted to work as Deed Writer shall not engage in government/semi-government job and in the business of petition writing and Stamp Vending.
- Every authorized Deed Writer shall, at his own expense, provide himself with an official seal, to be made under the direction of the authority permitting him, on which shall be engraved in URDU character his name and the year in which he was permitted.
- Every Deed Writer shall maintain a proper Register along with a certificate on its first page by a responsible/relevant official of the officer of D.C/Collector specifying the number of pages in the Register.
- Each page of the Register shall be properly stamped by the relevant officer of the concerned officer before any entry is made by the Deed Writer therein.
- The Register shall be properly paged and checked by the concerned office on fortnightly basis.
- The Deed Writer shall enter in his Register contents of the Deed as well as named with signatures/thumb impressions of all the concerned persons and shall produce the Register for the inspection of any Court or Judicial or Revenue officer demanding it.
- Every authorized Deed Writer shall sign and seal with his official seal , every Deed written by him and shall enter on it number which it bears in his Register and the prescribed fee which has been charged for writing it.
- The Deed Writer shall properly consign his Register to the Record Room after its closure and shall keep the record that how many Registers have been completed by him in the previous fiscal year(s)

### **GUIDELINES FOR STAMP VENDORS.**

- Only licensed stamp vendor shall be allowed to vend stamps

- The licensed Stamp Vendors shall not be allowed to demand or accept, for any stamp any consideration exceeding the value of such stamps.
- The Stamp Vendor shall submit the return in the standard vernacular on regular basis, after the close of each quarter, to the quarters concerned.
- The stocks of stamps and Registers of Stamp Vendors shall be examined and inspected respectively on regular basis to avoid any sort of fraud and malpractice
- The closed Registers of Stamp Vendors shall be properly consigned to the record room where proper record thereof shall be maintained.
- The Stamp Vendors shall follow the relevant rules and in case of violation and infringement thereof, violators shall be stopped from carrying on business and proceeded against under the relevant provisions of Stamp Act, Court Fees Act and the rules.

**CHAPTER-VI**  
**OFFICE MANAGEMENT**

Section-I  
(Secretariat Instructions)

<i>1(6-1)</i>	Relevant Provisions of Manual Of Secretariat Instructions, 2008 Regarding Correspondence and Communication	889-913
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Section-II  
(Correspondence and Communication)

<i>1(6-2)</i>	Mode Of Correspondence With The High Court (14.10.1980)	914
<i>2(6-2)</i>	Mode Of Correspondence With The High Court (08.11.2003)	914-915
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## CHAPTER-VI OFFICE MANAGEMENT

### SECTION-I SECRETARIAT INSTRUCTIONS

C.No. 1(6-1)

#### RELEVANT PROVISIONS OF MANUAL OF SECRETARIAT INSTRUCTIONS, 2008 REGARDING CORRESPONDENCE AND COMMUNICATION

#### IX. MAINTENANCE OF FILES

52. The name of the Department to which the file belongs should be printed in bold letters or should be written clearly in the space provided for it on the file cover.

53. Every Section/Branch shall maintain an approved list of main subject- headings, serially numbered, in respect of all matters dealt with by the Section/Branch. This list of main subjects- headings shall only give general subjects e.g. in a Section/Branch dealing with establishment matters some of the subject heads may be:-

- (a) recruitment of staff;
- (b) leave and transfer; and
- (c) pensions.

54. The list of main subjects- headings should be pasted on the opening pages of the File Register. The series of file numbers should run from 1st January to 31st December each year, after which, it should again start from the beginning, retaining as far as possible, the file numbers allotted to various subjects in the preceding year.

55. **Assignment of subject titles and numbers of files.** Every file shall be given:-

- (a) a suitable subject title; and
- (b) an appropriate number.

56. The subject and file number shall appear prominently on the front pages of the file covers in places provided for them.

57. The main subject headings shall be split into appropriate sub-headings and serially numbered. For example under the main headings "Recruitment of Staff" the sub- heading may be:-

- (a) stenographers;
- (b) Assistants;

- (c) Junior Clerks; and
- (d) Naib- Qasids, etc.

58. The subject title of the file dealing with the recruitment of Clerks will be:-

**Recruitment of staff**  
**Junior Clerks**

59. The number on each file will indicate:-

- (a) the Section or Branch to which the file pertains;
- (b) the name of the department in an abbreviated form;
- (c) the serial number of the sub- headings;
- (d) the serial number of the file; and
- (e) the year in which the file is opened.

60. The number of the file entitled "Recruitment of Staff/Junior Clerk" will, therefore, be for example:

**S.O./(Administration)/FD/1- 3/88**

61. New file may not be opened unnecessarily. The opening of part file should also be avoided as far as possible. A part files may, however, be opened when the main file is not likely to be available for some time, and action on a freshly received communication cannot brook delay. Where more than one part file are opened, each of them should be given a distinct number to indicate its relation with the main file e.g.

**S.O.(Administration)FD/1- 3/88(Part- File.I)**

**S.O.(Administration)FD/1- 3/88(Part- File.II)**

62. (a) The Part file of files should be merged with the main file as soon as the latter becomes available. In this process, care should be taken to preserve the chronological order of notes and correspondence as far as possible. For this purpose, the Para number of the notes of part file after merger with the main file should be re- numbered and the page numbered given therein corrected accordingly;
- (b) If a file has assumed such proportion that it is difficult to handle it conveniently a second volume should be started bearing the same number after about 300 pages; and
- (c) It is the duty of every member of the staff to protect official paper from rough or careless handling and keep them in good conditions. Crumpled, soiled and damaged sheets should be repaired as noticed.

**XI. NOTING AND DRAFTING**

77. **Notes:-** Notes shall ordinarily be recoded on cases which have to be put up to Higher Officers for orders. No elaborate note need, however, be recorded by a section:-

(a) on receipt which he himself is competent to dispose of in the light of clear precedents or practice or under the Standing Orders delegating specific powers to him to dispose of certain types of cases; and

(b) on a case where the line of action has been indicated by Higher Officer and he is required to put up draft, unless something important has to be pointed out which would alter the proposed line of action.

78. When a case is put up to a higher Officer, it shall always be presumed that the paper under consideration will be read by the officer to whom it is submitted. Paraphrasing of the contents of the paper under consideration or reproduction of verbatim extracts from it in a note should, as a rule, be avoided. A précis may, however, be made if the paper under consideration is of a great length and complexity.

79. The object of a note is to supply in the most concise, correct and clear form the relevant information required for the disposal of paper under consideration. In some cases a mere perusal of the paper under consideration will be sufficient and no further elaboration will be needed beyond a brief suggestion for action. When a note is needed, it shall be a presentation of the case in the following sequence:-

(a) the question for consideration;

(b) the circumstances leading up to it, with brief background and full facts of the case. (The noting officer should point out any error or miss-statement of facts in the paper under consideration or in the notes of other Departments);

(c) any rule, regulation, precedent or policy having bearing on the case. (The noting officer should discuss their application or otherwise to the question under consideration);

(d) the points for decision; and

(e) the suggestions for action.

80. All notes should be legibly written on note sheets. No note should be written on the receipt itself. If a higher officer has already made any remarks on a receipt, they should be copied out on the note sheet below the red ink entry relating to the receipt before subsequent notes are recorded.

81. Notes exceeding half a page may be neatly type-written if hand-written they should be easily legible.

82. Notes should be broken up, as much as possible, into short connected paragraphs, each dealing with a particular point. Long sentences and discursive style should be avoided.

83. All notes shall be temperately worded and shall be free from personal remarks. If apparent errors are to be pointed out, or if an opinion has to be criticized, it shall be done in sober and restrained language. Special care should be taken in making observations on- notes of senior officers and Ministers.

84. The officer recording the note should affix his signature and date on the right side of the note sheet at the end of his note with his full name.

85. The designation of the officer to whom a case is submitted should be indicated on the left margin below the signature of the officer submitting the note.

86. When an officer agrees with the preceding note or recommendations, he should append his signature and nothing more. Marginal notes or notes to emphasize specific points may, however, be made. Where officers are required to pass orders on notes, they should do it in a way so as to be directly convertible into a draft.

**97-A. Appropriate disposal of “Speak” and “Discuss” cases:** There is a lack of clarity in various government instructions on the disposal of “Speak” or “Discuss” cases desired so by senior officers. Henceforth it shall be the responsibility of the senior officer desiring to “discuss” a case, or “speak” about it, to note down the outcome of the discussion, and the consequent decision(s), before the case is sent back to the subordinate officer(s) for further action or submitted to the higher authorities. In case of lengthy discussion(s), the outcome should be minuted under the signature of the senior officer.

## **XII. FORM OF COMMUNICATION**

98. A written communication may take anyone of the following forms:-

- (a) Official letter;
- (b) Memorandum;
- (c) Demi- Official letter;
- (d) Un- official reference;
- (e) Endorsement;
- (f) Notification;
- (g) Press Communiqué/Notes;
- (h) Telegrams, Telex and Tele printer Message; and
- (i) Office Order.

99. **Official Letter:-** An official letter form should normally be used for correspondence with the Federal Government, other Provincial

Governments, Pakistan Missions Abroad, Foreign Mission in Pakistan, the Public Service Commission, the High Court and with the public bodies and individuals. It may also be used for communicating formal sanction of Government to Attached Department and subordinate offices but not for correspondence between different Departments of the Secretariat except when a reference is addressed to higher officer.

100. An official letter should be composed of the following:-

- (a) Letter head bearing the words 'Government of N.W.F.P', and name of the Department;
- (b) Number of (file number and dispatch number) place of issue and date;
- (c) Name and designation of the Head of the Department or the sender or of the officer on whose behalf the letter issued;
- (d) Designation and address of the addressee;
- (e) Subject;
- (f) Salutation;
- (g) Text;
- (h) Subscription;
- (i) Signature and name of the officers signing the letter in parenthesis; and
- (j) Telephone Number of the sender in the top left corner. (Specimen Appendix- III)

101. Communications addressed to business firms or groups of individuals and organization should be in the letter form beginning with the salutation 'Dear Sir/Sirs' and end with the subscription 'Yours truly' followed by the signature and designation of the person signing the letter (Specimen Appendix- IV).

102. **Memorandum:-** A memorandum may be issued where a reference can conveniently be made in a brief form without observing the formalities pertaining to an official letter. The memorandum is normally employed for corresponding with subordinate offices or offices of equal status within the same Government.

103. (i) The form of a memorandum may also be used:-
- (a) for correspondence between the Secretariat and head of Attached Departments; and
  - (b) in replying to petitions application for appointments, etc
- (ii) It should be written in the third person and should bear no salutation or subscriptions except the signature of the officer signing it. The name of the addressee should appear on the left hand corner of the page. The memorandum should begin with

- the word 'Reference' applications/petition letter  
No.....date..... from.....
104. The memorandum should be composed of the following:-
- (a) Letter head bearing the words "Government of N.W.F.P." and the name of the Department;
  - (b) Number of file number, dispatch number, place of issue and date;
  - (c) Designation and address of the addressee;
  - (d) Subject;
  - (e) Text;
  - (f) Signature and designation of the sender; and
  - (g) Telephone number of the sender shown in the top left hand corner; (Specimen Appendix- V)
105. **Demi- Official letter:-**
- (a) This form of correspondence should be used between Government officers when it is desired that a matter should receive the personal attention of the individual addressed. It should, therefore, be answered demi- officially by the officer to whom the communication under reply is addressed or by his successor in office;
  - (b) The first and commonest use of demi- official correspondence is to supplement or explain any matter which has already been referred officially, or which is proposed to be so referred subsequently;
  - (c) Demi- official correspondence may appropriately be used in cases of extreme secrecy where it is necessary to run no risk and in certain cases relating to matters of personal nature, and occasionally in cases of great urgency to save time.
106. A demi- official communication should be addressed to an officer by name. It should be written in the first person singular with the salutation 'My dear.....' or 'Dear Mr.....' and with the subscription 'Yours sincerely'. The salutation 'My dear.....' should normally be used for an officer of equal status or for an officer one step higher in status, whereas 'Dear Mr.....' shall be used for officers two or more steps higher in status. There is much to recommend the convention followed in Civil Service of Pakistan whereby officers senior by seven years or more are addressed in the form 'Dear Mr. Khan' otherwise the form 'My dear Khan' is used. In either case only surname appears in the salutation, unless an informal relationship subsists between the two officers in which case the first name can be used.
107. The demi- official letter should conform to the following particulars:-

- (a) The name and designation of the sender should be typed under the crest on the first page. The telephone number of the officer sending the communication should invariably be indicated on the top left corner.
- (b) The name and address of the person addressed should be written at the bottom of the letter, beginning from left margin, one space or two below the writer's signature; and
- (c) The covers of demi- official correspondence should be addressed by name. (Specimen Appendix- VI)

108. Demi- official correspondence should be filed with other official correspondence on the subject.

109. Demi- official correspondence should be avoided when an official letter will serve the purpose.

110. Subordinate officers usually are not required to address Government either directly or demi- officially on matters of public importance. In no case should such officers adopt the demi- official form of correspondence to make direct representation on matters such as promotion, posting, pay and the like. In all such cases, regular representations should be made through normal channel.

111. **An Un- Official reference (U.O):-** This form of communication is normally used for making inter- departmental reference between Secretariat Departments particularly when files are sent to other Departments for information or advice. (Specimen Appendix- VII)

112. **Endorsement:-** This form should be used when:-

- (a) A copy of a communication is to be forwarded to others in addition to the original addressee e.g. "a copy is forwarded to \_\_\_\_\_ for information/for information and guidance/for necessary action/for compliance";
- (b) Copies of orders, etc. received in or issued from a Department are sent to other Departments or offices for information and/or action. If any action is required, brief instructions regarding the action to be taken should be given; and
- (c) Copies of Government sanction to expenditure or approval to schemes are to be endorsed to the Audit Officer concerned by way of authentication of expenditure/financial commitment.

113. Endorsement should be addressed by designation. It should be written in the third person and should bear no salutation or subscription except the signature and designation of the officer signing it.

114. When the endorsees are more than one in number, the signature and designation of the officer signing the endorsement should appear at the end of the last endorsement and not after every individual endorsement. (Specimen Appendix- VIII)

115. **Notification:-** This form shall be used for making Gazetted appointments, postings, transfers, etc, and also for publishing rules, orders, bills, ordinance, etc. in the official Gazette. (Specimen Appendix- IX)

116. **Press Communiques or Press Note:-** This form is used when it is sought to give wide publicity to a Government decision or policy through the Press (for detailed instructions see paras 146 to 157).

121. **Drafting:-** A draft of the communication, proposed to be issued on a case submitted to a higher officer, may be prepared at any stage, if it appears that this will facilitate its disposal, in routine cases, the Section Officer should invariably put up an anticipatory draft when submitting a case for orders. A higher Officer may himself prepare a draft and authorize its issue, or submit it to the next higher officer for approval.

122. A draft communication should convey the exact intention of the orders passed both in letter and in spirit. The language used should be clear and simple. Lengthy sentences and repetitions whether of words, expressions or of ideas should be avoided. In case of lengthy and complex communication, the main points should be summarized in the concluding paragraph.

123. The following instructions should be observed when preparing a draft:-

- (a) A draft should be written or typed in double space on both sides of the paper. A sufficiently wide margin should be left for corrections and additions;
- (b) all drafts should bear the relevant file number and subject. The reference number of the addressee's letter, if any, should always be given in subsequent correspondence;
- (c) when many corrections and alterations have been made in a draft which has to be submitted to Governor, Chief Minister or a Minister, a clean copy of the amended draft should be prepared and put up with the case.
- (d) a draft should clearly indicate the enclosures which are to accompany the fair copy. Where a reference is made to some enclosures, diagonal strokes may be made against them in the margin. The number of enclosures should also be indicated at the end of the draft of the left hand margin of the page;
- (e) if copies of enclosures, referred to in the draft are available and not to be typed, the fact should be clearly stated in the margin of the draft;
- (f) when it is known that the office to which a communication is to be sent will require extra copies, the number of copies to be enclosed should be indicated in the draft;



- (g) The officer under whose signature the communication is to issue should initial the draft in token of his approval. His designation/telephone number should invariably be indicated on the draft;
- (h) The appropriate priority marking should be indicated on the draft. If any paper is to be dispatched by the special messenger or issued under registered post or under postal certificate, by Express Delivery or by Air Mail, necessary instructions should be given on the draft for the guidance of the dispatcher;
- (i) All executive actions of the Government shall be expressed to be taken in the name of the Governor;
- (j) in order to avoid objections, financial sanction shall clearly indicate to have been issued by authority empowered to do so under the relevant delegation of power rules. In cases, where no powers have been delegated to the departments, audit copy of the sanction order shall be authenticated/endorsed by the Finance Department; and
- (k) a clean copy of the letter should be placed in the file. This should be referenced immediately before any other action is taken on the file.

124. **Inter Departmental Reference;** - Inter- Departmental reference shall ordinarily be made by means of an un- official reference (U.O.) either on the file itself or separately. It should be ensured that adequate number of copies of the reference are supplied by the initiating department so that action at the other end is not delayed on account of retyping and distribution of the reference to different officers. The initiating department should, therefore, anticipate the exercise which the department to whom reference is being addressed would have to undertake.

143. **Reference from the Head of attached Departments and subordinate Offices to the Secretariat Department:-** Proposals from the Heads of Attached Departments or other subordinate offices shall be in the form of self- contained communication stating the facts of the case, the points for decision and their specific recommendations.

#### **XIV. PREPARATION AND SUBMISSION OF CASES**

158. Every file shall consist of two distinct parts viz;
- (a) the correspondence part; and
  - (b) the notes part.

The thick cardboard covers bearing two punched holes shall be used for the correspondence part of the file and the thinner folded file covers shall be used for the notes part.

159. Thick correspondence part of the file shall contain a docked sheet (Appendix XIII) and all communications including demi- official reference, received or issued. The correspondence part shall be arranged strictly in the chronological order and shall be firmly laced through the punched holes of the hard.

160. All pages of the correspondence part of the file, except on which nothing has been written or typed, should be serially numbered. The number should be written clearly and legibly and if the numbering has to be changed due to error or interpolation of some material, the original serial number should not be erased or over- written but simply scored out by a line drawn across it and the new number writhen thereunder. Necessary correction should also be made in the notes.

161. Each communication in the correspondence portion of the file shall be properly cross- referenced to facilitate prompt reference to the connected documents.

162. The latest communication on which action is being taken shall also be placed on the correspondence portion of the file at the end and page numbered. It may be flagged with a "PUC"(Paper Under Consideration) label and referred to in the Note portion of the file as "PUC" at page\_\_\_\_\_/C".

163, Reference to correspondence shall always be made page- wise as "at PP 13- 14/C".

164. (a) The note- sheet in the note- part of the file should be tagged inside the file cover at the left hand top corner so that it becomes possible to fold them backwards and bring the last portion of the note on the top; and

(b) It shall be ensured that one or two blank sheets are added to the note portion of the file.

165. The note portion of the file should not be page numbered, but shall be serially paragraph numbered continuously. References to notes shall always be made paragraph- wise as "Para\_\_\_\_\_/N".

166. Red Entry:- All incoming and outgoing communications shall be entered in red ink in the Note portion of the file at the appropriate stage and given a paragraph number. Such entries shall be separated from the running Notes by horizontal lines drawn across the page before and after each entry as under:-

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Form

The District Co-Ordination Officer, Mardan,  
No. 11447/c, dated 12th August, 2007 page 15/c.

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169. **Flagging references and use of flags:** - All previous papers, rules, regulations, precedents and policies etc; to which reference has been made in the fresh receipt or in the note shall be indicated by giving the number of the page or paragraph and number of the relevant file in the margin in pencil and where necessary, by flagging with alphabetical slips. The slips should be pinned neatly under the pages, the sharp end of the pin being hidden between the slip and the page. When a large number of references are to be flagged, the slips should be so spaced as to be clearly noticeable. If reference is flagged with alphabetical slips, the number and pages of the relevant file or documents should also be indicated in the margin (in the notes part) so that if the slips are lost or removed at a later stage, the reference can still be located. If the document put up for reference in a report, periodical or other publication its full title, etc. should also be given in the margin in ink, unless it is clearly mentioned in the Note itself by name. In the case of a file its number must be noted.

170. Reference books normally available with the officers should not be put up with the file but the relevant pages to which attention is to be drawn be indicated in the margin. If some reference books have to be put up, they should, if of the same size as the file board of file cover be placed at bottom of the case papers if of a smaller size they should be placed at the top to prevent them from slipping out.

171. **Linking of files.**

- (a) Linking of files on which action is in progress should, as far as possible be avoided. As a general rule, this practice should be resorted to only when the files are inter- connected and orders have to be passed on them simultaneously. If a reference has to be made to papers in another current file, relevant extracts should be taken if the matter involved is not too lengthy; and
- (b) Where linking is necessary, a slip should be attached to the top binder of the file board indicating the number of cases and file number on which orders are required.

172. The references put up should be restricted to those actually required for the disposal of the case. Where references to previous letters occurs in the documents under consideration, the files containing these letters should be put up only, if required to elucidate the subject.

173. Where a paper which has been printed is required for information or reference, a printed copy, and not the original, should be submitted in the absence of orders to the contrary.

174. Files must be kept flat and not folded at the middle or doubled back to display particular pages.

175. **Use of Priority Labels:-** The use of priority labels shall be restricted to cases where they are absolutely necessary. Utmost care should be exercised in the gradation of references and priority labels must not be used indiscriminately.

176. The label shall be fixed to the top binder of the file board. Once a particular priority has been given to a file, it should not continue to have the same priority automatically. Each officer dealing with a file shall satisfy himself at every stage that the correct priority has been given to it. He should change the priority if he considers it appropriate to do so.

177. **Treatment of priority cases:-** Cases requiring instant attention, to the exclusion of all other work which an officer may be doing at the time, should be labelled "IMMEDIATE" Cases labelled "IMMEDIATE" shall be sent to the residence of the officer concerned after office hours and on holidays, if necessary. If sent to the residence the officer shall deal with the case promptly and if possible, return it with his orders to the person who brought it. "IMMEDIATE" label should be used most sparingly.

## **XV. RECEIPT AND DISTRIBUTION OF URGENT PAPERS AFTER OFFICE HOURS AND ON HOLIDAYS**

185. (a) The Section Officer or the official on duty in the Establishment & Administration Department and the resident Superintendent-cum-Care taker shall deal with any matter requiring urgent attention after office hours or on holidays. They will, for instance, be responsible for:-

- (i) Receipt and prompt dispatch to the quarter concerned of all letters, telegrams files and messages, received after office hours or on holidays;
- (ii) Sending papers and cases labelled “IMMEDIATE” or marked “RESIDENCE” to the residence of the officer concerned by special messenger;
- (b) They shall arrange for the efficient disposal of the work and particularly ensure that a competent clerk is put on telephone duty, who should, by some arrangements, be able to contact the concerned officer in cases of emergency.

187. **Dispatch:-** The normal agency for the dispatch of all communications files, etc; to departments or offices by the post shall be the Receipt and Issue Branch. The delivery of local Dak to Department and offices shall be handled by the Receipt and Issue Branch through the Dak Delivery Book. Private Secretaries and Stenographers attached to officers and Section Clerks, may however, dispatch secret, confidential or urgent communications wherever required to do so. They may either dispatch such communications direct through means at their disposal or enclose them in covers and pass them on to the Receipt and Issue Branch for onward dispatch.

188. (a) The Superintendent of the Receipt and Issue Branch shall ensure that letters, etc; are actually dispatched on the same day; in any case not later than the next morning and the office copies are return to sections immediately after dispatch; and
- (b) The ordinary Dak shall be dispatched twice a day (9.00 a.m. and 11.30 a.m.) but urgent and immediate communications are to be sent without delay.

189. The date on a communication being issued shall be the date on which it actually issues. Ordinarily the original date, if one has already been inserted, should stand but if there is a delay of more than 24 hours, the original date should be altered. In any case a second date along with the original date should not be added. Communications should never bear a double date.

190. (a) Document to be sent by post should be placed in covers and the names and addresses of the addressee should be neatly and correctly written or typed on the Economy slip, which should be used for covers containing ordinary (i.e. unclassified) communications except when the contents are bulky or when it is proposed to send the cover by insured post. Economy slips should not be used for covers

addressed to Foreign Countries or to officials of Foreign Mission in Pakistan or for covers containing secret and confidential documents; and

(b) Daftaries in the Receipt and Issue Branches should be properly instructed regarding the correct use of Economy Slip and the manner of affixing stamps so that when opening the envelopes at the receiving end, they are not damaged.

191. The Dak to be sent out by post shall be entered in a separate register, and the entries should show the reference number, particulars of the addressee and the amount of stamps affixed on each letter, telegram, etc.

192. For the purpose of distribution of circular letters etc, by post to Head of Attached Department, other subordinate offices etc., outside Provincial Headquarter a separate list of such Departments/Offices, showing the number of copies to be sent to each, shall be maintained by all Receipt and Issue Branches.

193. After communication has been dispatched, the office copy shall be rubber stamped "ISSUED" initialled and dated by the Dispatch Clerk, and returned immediately to the Section/Branch concerned.

194. The following procedure for dispatch shall be followed in the Receipt and Issue Branch:-

**DISPATCHER:-**

- (a) Receives papers for dispatched;
- (b) Checks the enclosures, if any;
- (c) Inserts number and date of dispatch both in the fair copy and in the office copy;
- (d) Separates fair copy from the office copy;
- (e) Affix rubber stamps "ISSUED" on the office copy and puts his dated initial under it;
- (f) Return office copy to the Section concerned;
- (g) Places fair copies in the relevant compartments of the sorting racks, if any;
- (h) Clears compartments of sorting rack one by one and arranges letter office-wise, separating communication for local dispatch from those to be dispatched by post;

- (i) Enters communications for local dispatch in Dak Delivery Book;
- (j) Prepares covers where necessary and writes addresses on covers or Economy Slip as the case may be, for communication to be dispatched by post (cyclostyled or Photostatted address slip shall be used for addresses frequently addressed);
- (k) Passes covers on to Daftari;
- (l) On receipt of covers from daftari the dispatcher will;
- (m) Make necessary entries in the Register of Stamp Account;
- (n) Hand over covers to Naib Qasids for posting; and
- (o) At the end of each day Dispatcher shall check the Dak Delivery Books and satisfy himself that all Daks delivered by hand has been properly acknowledged by the addressees concerned.

## **XVII. PRESERVATION OF RECORDS RECORDING, INDEXING, CLASSIFICATION, WEEDING AND PRINTING OF RECORD**

### **200. Definition:-**

(1) Preservation of records includes recording, indexing, printing, classification and weeding of files, which should be done as a continuous process, action on a file should not be treated to have been completed unless it has been properly recorded.

(2) In these instructions:-

- (a) 'Recording' means the process of closing of a file after action on all issues has been completed;
- (b) 'Indexing' means preparation of index slips for each file and ultimately an Annual Index of the files of the Department;
- (c) 'Classification' means classification of files into "Secret" and "Confidential";
- (d) 'Categorization' means categorization of files into various categories on the bases of period for which they should be preserved; and
- (e) 'Weeding' means sorting out and destroying of those records which have outlived their utility and need no longer be preserved.

201. **Recording:-** Where a communication issued finally disposes of a case, the Section Officer shall take the following further action before passing

it on to the Section Assistant/Section Clerk- cum- Record Keeper (as the case may be):-

- (a) Read through the notes and correspondence and verify that no further action remains to be taken on the case.
- (b) Take extracts of important orders, decisions, advice, etc; for incorporation in the reference register;
- (c) Check and satisfy himself that all pages are complete and intact;
- (d) Remove and destroy all unimportant papers, routine notes and slips and other papers not material to the case;
- (e) Remove and destroy drafts or papers which have been printed or typed (except copies initialed by officers), proofs and any other duplicates of papers otherwise appearing in full on the record;
- (f) Remove all pins, clips and tags, if any;
- (g) Transfer notes to the correspondence file (Notes at the bottom following the correspondence) and lace them together securely, changing the file cover, if necessary, in case the existing one in mutilated; and
- (h) The index card already prepared may be appropriately revised where necessary.

202. On receipt of a file marked for record, the Section Assistant/Section Clerk- cum- Record Keeper, as the case may be, shall:-

- (a) Note the recording date and the classification of the file in the relevant columns of the file register (Appendix- XIV). He should also maintain an annual register of recorded file as shown in (Appendix- XV);
- (b) Enter the serial number of the file on the relevant page of the Register of Files due for destruction (Appendix- XVI). This register should contain at least one page for each calendar year and the serial number of files due for destruction in a particular year should be entered on the relevant page;
- (c) Place the file among other recoded files in its appropriate place; and
- (d) The Section Assistant/Section Clerk- cum- Record Keeper shall also perform the following duties:-
  - (i) Note the number of connected File(s) or previous reference(s) on the file cover of the file being recorded and also on the cover of the file under reference;



- (ii) Have all torn pages mended and twisted pages straightened;
- (iii) See that all marginal references both in the notes and correspondence are either available on the file or in Appendix at the end of the file or are duly referenced so as to make them readily traceable. (In this process flags shall be clearly identified with or replaced by names or relevant document, number of files, page numbers, Para numbers, etc);
- (iv) Write or type the full names of officers (who deal with the file) with correct spelling and their designation below signature where- signatures of the officers are not legible; and
- (v) Having completed the above action, place the file among other recorded files in its appropriate place or stamp the file "Recorded" in the margin of the last Para of the Notes, initial it and mark the file to the Record Room.

203. **Preparation for Index Card:-** As a general rule, index cards should be prepared simultaneously with the opening of a new file to which a subject title and number have been allotted. It will be convenient to use index cards of two different colors as under:-

WHITE - For all Files,

BLUE - for the policy files. Thus policy files will have two cards each.

(For Specimen of index cards see Appendix- XVII and XVIII)

204. The index head selected should be entered on the main subject index card (WHITE). Headings of subsidiary cards (BLUE) should be written in red ink on the main card so that if it becomes necessary to deal with all the cards relating to a file (e.g. to transfer it to another Section, after its number, etc.) the main card would at once show if any subsidiary cards also exist. The entries on the subsidiary cards should be sufficient to indicate the subject and number of the file required without further reference.

205. The index cards should be arranged strictly in alphabetical order.

206. The selection of suitable subject heading for a file and the preparation of the Index Cards should be done by the Section Assistant in consultation with the Section Officer, if necessary.

207. The card index should be in the custody of the Section Assistant/Section Clerk- cum- Record Keeper, but must be readily available to the concerned staff working in the Section/Branch at all times.

208. The annual index of the proceedings of a Section for a particular year should be prepared from the index cards and printed in the beginning of the following year.

209. **Categorization:-** For the purpose of permanent or temporary preservation of the recorded files, each file shall be categorized as under showing the period of retention on the docket sheet of that file:-

- (a) Category 'A' - Permanent files to be printed.
- (b) Category 'B' - Permanent files not to be printed.
- (c) Category 'C' - Life 5 to 15 years.
- (d) Category 'D' - Life up to 4 years.

**210. Category 'A' Permanent Files to be printed :-** The 'A' category shall include important files of permanent utility and have to be preserved with utmost care as they will be required frequently for reference purposes over a long period of years, more than one copy of such files will be needed for working purposes. They will, therefore, be properly recorded, indexed and printed. Only printed copies shall be used for working purposes. The original manuscript files shall be preserved with the utmost care and put up with a case only when absolutely necessary. As a general rule, the following types of files shall be included in this category:-

- (a) Files containing discussion or orders on important matters of policy legislation, rules and regulation;
- (b) Files containing orders establishing important procedures, or conveying important instruction of a general nature;
- (c) Files of historical, academic or public importance;
- (d) Files relating to individuals whose importance warrants retention of their cases permanently; and
- (e) State documents such as treaties and agreements with Tribal Areas.

**211. Category 'B' Permanent Files but not to be printed:-** The files included in 'B' category will also be of permanent nature but frequent references to them may not be necessary and original manuscript itself would be sufficient for working purposes. Such files shall not be printed but will be properly recorded, indexed and retained permanently. If at any time it becomes necessary to print a category 'B' file it may be transferred to category 'A' and printed. The service records of the Government Servants should be classified under this category subject to revision of classification after each five years.

**212. Category 'C' life 5 to 15 years:** - The 'C' category will include the files which have limited utility and will be retained for periods ranging between 5 to 15 years, depending on the nature of the files. They will not be printed but will be properly recorded and indexed. It is not possible to lay down any hard and fast rule for determining the period for which a file of this category should be retained, as it will largely depend on the nature and importance of the subject discussed in it and the frequency of the use to which it may be put. Section Officer should, therefore, exercise discretion in the matter in the light of past experience and decide as to which the files should be included in this category and for what period should be retained. The classification of each of these files should be reviewed at the end of the allotted period and, if no longer required, should be destroyed.

**213. Category 'D' Life up to four years:-** The 'D' category will consist of files containing correspondence of routine or temporary nature which are not likely to be required beyond a period of three years. These will therefore be retained for a period ranging between one and four years, according to their relative importance, these files need not be indexed but should be retained in the Sections, Branches for the allotted periods and thereafter destroyed.

**214. Secret and Confidential Files:-** The security classification of files which have ceased to be secret or confidential should be downgraded under the order of the Secretary concerned. When this is done, they should be recorded, indexed and classified as ordinary files.

215. Where files are to remain secret or confidential, they should be recorded under the instruction of the Section Officer and should remain in his personal custody. He should also maintain a register of secret and confidential recorded files in the form at Appendix- XIX.

216. At the time of handing over and taking over charge of a post, the officer taking over charge should satisfy himself that all the confidential files recorded in the register are in their proper place and sign the register at the end of the last entry in token of having received them.

217. A copy of the list of the files which remain in the custody of the Branch Officer should be supplied to the Section concerned to enable them to put up any fresh receipt direct to the Branch Officer concerned.

218. Secret or confidential files which are more than three years old and are not current, may be sent to the Section/Branch concerned to be placed in separate almirah, the keys of which should be in the personal custody of the Section Officer/Superintendent.

**220. Weeding and destruction of files:-** When notes are printed, the names of the Governor, Chief Minister, Ministers and Secretariat Officers should be printed in full at the end of each note written by them.

221. Starting from January each year the Section Officer will undertake an exercise for sorting out files out for destruction during at year. He shall prepare a list of all such files.

222. The Section Officer will go through each file and obtain final orders of the Deputy Secretary/Additional Secretary with regard to its destruction or preservation for a further period. The Deputy Secretary/Additional Secretary will pass his order on the list submitted with the files. The files together with the list will then be returned to the Section Officer for further action.

223. (a) Against the files which have been destroyed or those the period of retention of which has been extended, the date of destruction or period of extension, as the case may be, shall be entered in appropriate register by the Section Officer. When the life of the file is extended, the new date shall be carried forward accordingly.

(b) The secret and confidential files and papers due for destruction shall be burnt under the personal supervision of the Section Officer who will note the fact in the Register of recorded files. Other files to be destroyed shall be effectively torn and disposed off as ordered by the Government from time to time.

224. The various registers used in the Departments of Secretariat should be categorized and preserved/retained for the period indicated against each as under:-

- |                               |      |                         |
|-------------------------------|------|-------------------------|
| (a) File Register             | .... | Category 'A' Permanent  |
| (b) Register of Files due for | .... | Category 'B' Permanent. |
| Destruction.                  |      |                         |
| (c) Section Dairy Register    | .... | Category 'C' 5 years    |
| (d) Dak Book                  | .... | Category 'D' 2 years    |

**232. Reminders:** - The following system of reminders may be adopted as a matter of routine. The first reminder to another department or subordinate office should be an unofficial reference or office memorandum issued after reasonable lapse of time. The second reminder should be a demi- official letter by the Section Officer or Deputy Secretary. If there is still no response the matter should be taken up at a higher level by Deputy Secretary/Additional Secretary or the Secretary. Such written reminder should, of course, be supplemented by telephonic reminders to the officers concerned. The Federal Government or other Provincial Governments and officers not subordinate to Governments should be reminded by official and demi- official letters.

**APPENDIX- IV**  
**[Paragraphs – 100(J) ]**

**OFFICIAL LETTER**

Telephone No.  
of the sender

GOVERNMENT OF N.W.F.P.,  
Name of the Department/Wing.  
Number of letter.....  
Date including the place of issue.

To:

Designation and address of the addressee.

Subject: \_\_\_\_\_

Dear Sir,

I am directed to \_\_\_\_\_ (when purporting to issue under directions from government).

I have the pleasure to \_\_\_\_\_ (when not purporting to issue under directions from Government).

Your Faithfully,  
Signature  
( \_\_\_\_\_ NAME \_\_\_\_\_ )  
Designation of the Sender.

Particulars of documents attached,  
if any.

**APPENDIX- IV**  
***[Paragraphs – 104]***

**MEMORANDUM**

Telephone No.  
of the sender

GOVERNMENT OF N.W.F.P.,  
Name of the Department/Wing.  
Number of letter.....  
Date including the place of issue.

To:

Designation and address of the addressee.

Subject: \_\_\_\_\_

Memorandum

Reference

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Particulars of documents attached, if any.

Signature  
(Name of the sender block letters)  
Designation of the Sender.

**APPENDIX- VI**  
*[ Paragraph - 107 ]*

**DEMI OFFICIAL LETTER**

Name, Designation and  
Telephone No. of the  
Sender  
Place of issue & Date

GOVERNMENT OF N.W.F.P.  
NAME OF THE DEPARTMENT  
D.O No.....

Subject:

May dear ..... (when addressing officers of equal or  
junior status)

.....  
.....

Dear Mr ..... (when addressing officer of senior status).

I am desired to (when purporting to issue under direction from  
Government).....

.....

I am to .....( in other cases).

Yours sincerely,

Signature  
(Name in block letter)

Name, Designation and  
Address of the addressee.

**APPENDIX- VIII**  
**[ Paragraph - 114]**

**ENDORSEMENT**

Copy of memorandum/letter  
No.....dated.....

from .....to.....  
.....  
.....

Subject: \_\_\_\_\_

(Contents)

Government of NWFP  
E&AD  
(Regulation Wing)

Edst: No.....dated.....

A copy of ..... is forwarded to:- -

1. ....

2. ....

for information / for necessary action / for supplying the requisite information.

Signature  
(Name in block letter)  
Designation of Issuing Authority



**APPENDIX- IX**  
*[ Paragraph - 115]*

GOVERNMENT OF N.W.F.P.  
Name of Department/Wing.  
Dated (Place of issue).....

**NOTIFICATION**

No ..... The Governor of the N.W.F.P.  
is pleased

it is hereby notified

Text .....  
.....  
.....

Name in block letters  
Designation of the  
Issuing Authority.

**ENDORSEMENT**

No ..... Dated  
.....

A copy is forwarded to .....  
All concerned.....

**ENDORSEMENT**

No..... Dated .....

A copy is forwarded to the Manager, Government Printing and  
Stationery  
Department, NWFP, Peshawar for publication in the next issue of the  
Government  
Gazette.

Signature  
(Name in block letters)  
Designation of the Officer  
issuing the endorsement.

**SECTION-II**  
**(CORRESPONDENCE AND COMMUNICATION)**

C.No. 1(6-2)

**MODE OF CORRESPONDENCE WITH THE HIGH COURT**

I am directed to say that it has been come to notice that some of the subordinate Judicial Officers are in the habit of addressing letters etc. direct to the undersigned over and above the heads of their immediate officers. This practice is contrary to the office discipline and the established principles. All type of correspondence should therefore reach this office through proper channel, except cases in which direct reference has been made, even in such cases a copy of the reply be forwarded to the superior authority or authorities.

I am also to say that all routine correspondence be addressed to the Registrar by designation and not by name.

It is expected that, in future, the instructions are to be strictly followed in letter and spirit.

(PHC letter No.10546-10606/Admn:Brh: Dated Pesh: the 14<sup>th</sup> Oct, 1980)

C.No. 2(6-2)

**MODE OF CORRESPONDENCE WITH THE HIGH COURT**

I am directed to refer to the subject noted above and to say that it has been noticed with grave concern that the members of the District Judiciary make direct correspondence with this Court without using proper channel of communication in total violation of this Court's instructions contained in letter No.10546-10606/Admn: dated 14.10.1980 (copy enclosed). Needless to say that making direct correspondence with this Court is culpable as it is pre-judicial to the service discipline and tantamount to misconduct.

His Lordship, the Chief Justice has taken a very serious view of the situation and has directed that the Judicial Officers be made conscious of the consequences of the non-compliance of the Standing Instructions of this Court in this regard.

I am, therefore, to reiterate upon causing compliance of the aforementioned instructions by the Judicial Officers of your District as it

would adversely affect the management of the District & Sessions Judge concerned.

(PHC letter No.13277-13300/Admn: Dated 8<sup>th</sup> November, 2003)

C.No. **3**(6-2)

### **PROMPT RESPONSE TO THE COMMUNICATIONS BY THE HIGH COURT**

I am directed to refer to the subject noted above and to convey the concern of his lordship the Chief Justice at the pace of response to the communications by the High Court. The information sought to be supplied to this Court **by return fax**, in view of its urgency, is even delayed for days.

I am, therefore, to ask to ensure immediate response to such communication of this Court through fax the same day in future, please.

(PHC letter No. 4920-4943/Admn: Dated 18<sup>th</sup> June, 2005)

C.No. **4**(6-2)

### **DIRECT CORRESPONDENCE WITH HIGH COURT**

It has been noticed that judicial officers working in the field directly approach this office for grievances like requirements of residence, Courts or Courts facilities etc. this is violative of the principle of unity of command and discipline of service. Bypassing the District & Sessions Judges amounts to overlooking first available forum, who could resolve the issues locally.

That in view, it is reiterated that direct correspondence with this office other than by District & Sessions Judge in future will not be entertained on any issue. It is requested that these standing instructions may be circulated amongst judicial officers as well as subordinate officials for strict compliance.

(PHC Letter No. 3376-3400/Admn, Dated 21<sup>st</sup> February, 2017)

C.No. 5(6-2)

**MULTIPLE COPIES OF THE SAME CORRESPONDENCE**

I am directed to say that it has been observed that the field officers regularly share copies of their charge assumption, details about constitution of the DSC for recruitment, minutes of the Criminal Coordination Committee and other irrelevant documents with the office of Principal Staff officer to Hon'ble Chief Justice, amongst them many matters fall beyond the mandate and TORs of his office, resultantly precious government resource is wasted. Similarly, at times fax and emails intended to be sent to the Registrar office are also sent to his office.

Hon'ble Chief Justice has, therefore, been pleased to direct all concerned to desist from such practice in future, as it leads to duplication except in such cases where the details are explicitly sought by the office in question.

This may be circulated amongst all judicial officers within your respective district for strict compliance, please.

(PHC Letter No.20012-20046/Admn, Dated 07<sup>th</sup> October, 2019)

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**CHAPTER-VII  
JUDICIAL BUSINESS**

**SECTION-I  
INVESTMENT OF JUDICIAL POWERS**

**NOTIFICATION(S) UNDER DIFFERENT LAWS**

C.No. 1(7-1)

**(A) INVESTMENT OF POWERS UNDER ANTI-TERRORISM  
ACT, 1997**

**DISTRICT AND SESSIONS JUDGES AS ANTI TERRORISM COURT**

**NOTIFICATION**

Dated Peshawar, the 08<sup>th</sup> November, 2002

**No. SO(Prosecution)HD/1-8/02:-** In exercise of the powers conferred by section 14(5) of Anti Terrorism Act, 1997 (Act No. XXVII of 1997), Government of <sup>1</sup>[Khyber Pakhtunkhwa], in consultation with Chief Justice of the Peshawar High Court, Peshawar, is pleased to direct that when a Judge of an Anti-Terrorism Court is on leave, or for any other reasons, is temporarily unable to perform his duties, the Session Judge, having jurisdiction at the principal seat of the Anti-Terrorism Court, shall conduct the proceedings of urgent nature pertaining to such Anti-Terrorism Courts, so long as such Judge is unable to perform his duties.

C.No. 2(7-1)

**(B) INVESTMENT OF POWERS UNDER KHYBER  
PAKHTUNKHWA CHILD PROTECTION AND WELFARE ACT,  
2010**

**DISTRICT AND SESSIONS JUDGES AS CHILDREN PROTECTION  
COURT UNDER KHYBER PAKHTUNKHWA CHILD  
PROTECTION AND WELFARE ACT, 2010**

**PESHAWAR HIGH COURT  
NOTIFICATION**

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<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

Dated Peshawar the 18<sup>th</sup> December, 2012

No.269-J: In exercise of the powers conferred by Section 15(2) of the Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, Hon'ble the Chief Justice of this Court has been pleased to confer powers of Children Protection Court upon all the District & Sessions Judges/Zilla Qazis in the Khyber Pakhtunkhwa.

**ADDITIONAL DISTRICT AND SESSIONS JUDGES AS CHILDREN PROTECTION COURT UNDER KHYBER PAKHTUNKHWA CHILD PROTECTION AND WELFARE ACT, 2010**

**PESHAWAR HIGH COURT  
NOTIFICATION**

Dated Peshawar the 07<sup>th</sup> August, 2017

**No. 176-J** In exercise of powers conferred by Section 15, sub section (2) of the Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, Hon'ble the Chief Justice of this Court has been pleased to confer powers of Child Protection Court upon all the Additional District & Sessions Judges/Izafi Zilla Qazis in Khyber Pakhtunkhwa.

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT**

Dated Peshawar the 07<sup>th</sup> July, 2020

**NOTIFICATION:**

**(No. SO(Judl)/HD/L.SP-545/2020/Vol-I:** In exercise of the power conferred under sub-section (1) of Section 15 of the Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010 (Act No. XIII of 2010, the Government of the Khyber Pakhtunkhwa is pleased to establish seven Child Protection Courts in the following District of the Province to try cases under the Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010 (Act No. XIII of 2010) and Juvenile Justice System Act, 2018 (Act No. XXII of 2018) with immediate effect:

1. Peshawar.
2. Mardan.
3. Swat.



4. Abbottabad.
5. Kohat.
6. Bannu.
7. Dera Ismail Khan.

2. For rest of the districts this Department's notification No. SO (Judl)HD/Gen/P-312/2020/Vol-I dated 29<sup>th</sup> January <sup>1</sup>2019 stands intact.

C.No. 3(7-1)

**(C) INVESTMENT OF POWERS UNDER CODE OF CRIMINAL PROCEDURE, 1898**

**SENIOR CIVIL JUDGES' POWERS UNDER SECTION 30 CR.P.C AND AS MAGISTRATES 1<sup>ST</sup> CLASS AND 1<sup>ST</sup> CLASS CIVIL JUDGES' POWERS AS MAGISTRATES 1<sup>ST</sup> CLASS**

**GOVERNMENT OF WEST PAKISTAN, HOME DEPARTMENT  
(JUDICIAL)  
NOTIFICATION.**

Dated Lahore the 29<sup>th</sup> May, 1957

No. 16/4-H-Judl/56/13664, In exercise of the powers conferred by sub-section (1) of Section 12 of the Code of Criminal Procedure, 1898, the Governor of West Pakistan is pleased to confer the powers of a Magistrate of the Ist Class upon every (1) Senior Civil Judge and (2) Civil Judge of the 1st Class in West Pakistan, within the limits of the districts in which they are posted from time to time.

No. 10/4-H-Judl/56. The Governor of West Pakistan is pleased to invest every Senior Civil Judge in West Pakistan, who is a Magistrate of the first Class, with powers under section 30 of the Code of Criminal Procedure, 1898, to try as a Magistrate all offences not punishable with death. These powers shall be exercised within the limits of the districts in which they are posted from time to time.

**SENIOR CIVIL JUDGES' POWERS UNDER SECTION 30 CR.P.C**

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<sup>1</sup> In the notification it is mistakenly written as 2020

**GOVERNMENT OF <sup>1</sup>[KHYBER PAKHTUNKHWA], HOME AND TRIBAL AFFAIRS DEPARTMENT,**

**NOTIFICATION.**

Dated Peshawar the 22<sup>nd</sup> July, 1996

No.3/65-HSO(JUDL)/96. In exercise of the powers conferred by sub-section (1) of Section 12 of the Code of Criminal Procedure, 1898, and in supersession of West Pakistan Notification No.16/4-H-Judl/56/13664, dated 29.5.1957, the Government of the <sup>2</sup>[Khyber Pakhtunkhwa], is pleased to confer powers of Judicial Magistrate of the Ist Class upon every Senior Civil Judge in the Province to be exercised by them within the limits of the districts in which they are posted from time to time.

2. The Government of the <sup>3</sup>[Khyber Pakhtunkhwa], in exercise of the powers conferred by Section 30 of the said Code, is further pleased to invest every Senior Civil Judge in the Province, who is a Judicial Magistrate of the 1st Class, with the powers to try as Judicial Magistrate all offences not punishable with death. These powers shall be exercised by them within the limits of the Districts in which they are posted from time to time.

**CIVIL JUDGES 1<sup>ST</sup> CLASS AS JUDICIAL MAGISTRATES 1<sup>ST</sup> CLASS**

**GOVERNMENT OF <sup>4</sup>[KHYBER PAKHTUNKHWA], HOME AND TRIBAL AFFAIRS DEPARTMENT,**

**NOTIFICATION**

Dated Peshawar the 21<sup>st</sup> December, 1996

No. 3/65-HSO(JUDL)/96: In exercise of the powers conferred by sub-section (1) of Section 12 of the Code of Criminal Proceedings, 1898 and in supersession of West Pakistan Notification No. 16/4-H-Judl/56/13664 dated 29/05/1957, the Government of <sup>5</sup>[Khyber Pakhtunkhwa], is pleased to confer powers of Judicial Magistrate of 1<sup>st</sup> Class upon every Civil Judge of 1<sup>st</sup> Class

<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>2</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>3</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>4</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>5</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

in the Province to be exercised by them within the limits of the districts in which they are posted from time to time.

**SENIOR CIVIL JUDGES POWERS UNDER SECTION 29-B OF THE CR.P.C, 1898**

Dated Peshawar the 2<sup>nd</sup> February, 1999

No. SO (JUDL)/HD/3-13/98: In exercise of the powers conferred by Sub-section (2) of section 8 of the Reformatory School Act, 1897, the Government of <sup>1</sup>[Khyber Pakhtunkhwa], is pleased to empower all the Senior Civil Judges in <sup>2</sup>[Khyber Pakhtunkhwa], to try youthful offenders under section 29-B of the Criminal Procedure Code, 1898 and send them to Reformatory Schools for detention within the limits of Districts in which they are posted from time to time.

**DISTRICT AND SESSIONS JUDGES' POWER UNDER CLAUSE (a) & (b) OF SUB-SECTION (1) OF SECTION 491 CR.PC**

**PESHAWAR HIGH COURT  
NOTIFICATION**

Dated Peshawar the 17<sup>th</sup> April, 2002

**No. 45-J:** In exercise of the powers conferred under Section 491 (1 A) of the Code of Criminal Procedure, 1898 (Act V of 1898), the Honorable Chief Justice of this Court has been pleased to direct that all the District and Sessions Judges in the <sup>3</sup>[Khyber Pakhtunkhwa], shall exercise all powers specified in clause (a) & (b) of sub-section (1) of Section 491 Cr.P.C within the territorial limits of their respective Sessions Divisions.

**SUMMARY POWERS OF MAGISTRATES 1<sup>ST</sup> CLASS**

GOVERNMENT OF <sup>4</sup>[KHYBER PAKHTUNKHWA] HOME AND  
TRIBAL AFFAIRS DEPARTMENT

Peshawar Dated the 07.06.2005

**No. SO(JUDL)HD/3-8/2001.** In exercise of the powers conferred by section 37 of the Code of Criminal Procedure, 1898 (V of 1898), read with

<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>2</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>3</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>4</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

item (7) of Schedule IV thereof, the Government of the <sup>1</sup>[Khyber Pakhtunkhwa], is pleased to confer upon the Judicial Officers mentioned in column 2 of the Table below, having already been conferred with the power of Magistrate First Class, with the additional power to try cases summarily for the purposes of section 260 of the said Code.

**TABLE**  
*CONTAINING NAME OF 176 MAGISTRATES*

**SENIOR MOST ADDITIONAL DISTRICT AND SESSIONS JUDGES' POWER UNDER CLAUSE (a) & (b) OF SUB-SECTION (1) OF SECTION 491 Cr.PC**

Dated Peshawar the 5th May, 2011

No. 155-J., In exercise of the powers conferred under Section 491 (1A) of the Code of Criminal Procedure 1898 (Act V of 1898), the Hon'ble Chief Justice of this Court has been pleased to direct that the Senior most Additional Sessions Judge in a Sub-Division/Tehsil/Station in the whole of Khyber Pakhtunkhwa shall exercise all powers specified in clauses (a) and (b) of sub-section (1) of section 491 Cr.PC within the territorial limits of their respective Sessions Divisions.

**JUDICIAL MAGISTRATES 1<sup>ST</sup> CLASS AS MAGISTRATE UNDER SECTION 30 Cr.PC.**

**GOVERNMENT OF KHYBER PAKHTUNKHWA,  
HOME AND TRIBAL AFFAIRS DEPARTMENT.**

Dated Peshawar, the 02<sup>nd</sup> December, 2016

**NOTIFICATION**

No. SO(Judl)/HD/3-88/2015:- In exercise of powers conferred by section-30 of the Criminal Procedure Code, 1898 (V of 1898), the Provincial Government of Khyber Pakhtunkhwa is pleased to confer powers upon all Judicial Magistrates of the 1<sup>st</sup> Class of the Province of Khyber Pakhtunkhwa, to be exercised by them within the limits of the Districts in which they are posted, from time to time, with immediate effect, in the best public interest.

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<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

**EMPOWERMENT OF ALL THE ADDITIONAL DISTRICT & SESSIONS JUDGES UNDER CLAUSE (a) & (b) OF SUB-SECTION (1) OF SECTION 491 Cr.P.C**

**PESHAWAR HIGH COURT, PESHAWAR  
NOTIFICATION**

Dated Peshawar the 27<sup>th</sup> June, 2020

**No. 144-J:** In exercise of powers conferred under Section 491(1A) of the Code of Criminal Procedure 1898 (Act V of 1898), Hon'ble the Chief Justice has been pleased to empower all the Additional Sessions Judges of the Province to exercise powers specified in clauses (a) and (b) of sub-section (1) of Section 491 Cr.PC within the territorial limits of their respective Sessions Division.

C.No. 4(7-1)

**(D) INVESTMENT OF POWERS UNDER THE KHYBER PAKHTUNKHWA CONSUMER PROTECTION ACT, 1997**

**DISTRICT AND SESSIONS JUDGES AS CONSUMER COURT**

GOVERNMENT OF <sup>1</sup>[KHYBER PAKHTUNKHWA] HOME AND TRIBAL AFFAIRS DEPARTMENT

**NOTIFICATION**

Dated Peshawar the 7<sup>th</sup> June, 2005

No. SO (JUDL) HD/3-71/05: In exercise of the powers conferred by Section 11.A of the <sup>2</sup>[Khyber Pakhtunkhwa], Consumers Protection Act, 1997 (Act No. VI of 1997), the Government of <sup>3</sup>[Khyber Pakhtunkhwa], is pleased to establish, for the purposes of the said Act, a Consumer Court in each district to be presided by the District and Sessions Judge of the District concerned.

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<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>2</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>3</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

**ESTABLISHMENT OF CONSUMER COURT AT DIVISIONAL HEADQUARTER**

**GOVERNMENT OF KHYBER PAKHTUNKHWA HOME AND TRIBAL AFFAIRS DEPARTMENT**

**NOTIFICATION**

Dated 13<sup>th</sup> February 2013

**No. SO(Judl)/HD/3-71/2005** In exercise of the powers conferred by section 11-A of the Khyber Pakhtunkhwa Consumers Protection Act, 1997 (Act No. VI of 1997) the Government of the Khyber Pakhtunkhwa is pleased to establish, for the purpose of the said Act, Consumer Courts at each Divisional Headquarter, Notification of even number dated 7<sup>th</sup> June 2005 shall stand withdraw with immediate effect.

**ESTABLISHMENT OF CONSUMER COURT IN TEN DISTRICTS OF KHYBER PAKHTUNKHWA**

**GOVERNMENT OF KHYBER PAKHTUNKHWA HOME AND TRIBAL AFFAIRS DEPARTMENT**

**NOTIFICATION**

Dated 01<sup>st</sup> September, 2015

**No. SO(Judl)/HD/3-71/2015:** In exercise of the powers conferred by section 11-A of the Khyber Pakhtunkhwa Consumers Protection Act, 1997 (Act No. VI of 1997) read with section 12 thereof, the Provincial Government is pleased to establish Consumer Courts at the Districts mentioned below to be presided over by the District & Session Judges (BS-21) to entertain cases relating to the Act ibid:-

S. No	Name of the Districts
1	Charsadda
2.	Nowshera
3.	Mansehra
4.	Haripur
5.	Swabi
6.	Lakki Marwat
7.	Karak

8.	Malakand at Batkhela
9.	Chitral
10	Tank

**DDO POWERS OF THE CONSUMER COURT JUDGES  
GOVERNMENT OF KHYBER PAKHTUNKHWA INDUSTRIES,  
COMMERCE & TECHNICAL EDUCATION DEPARTMENT  
NOTIFICATION**

Dated 9<sup>th</sup> November, 2016

In supersession of this Department notification Nos. SO-II(IND)3-94/2013/Vol-IV/16997-34 dated 18.12.2014 and No. SO-II(IND)3-94/2013/Vol-V/13576-616 dated 20.10.2015, and in exercise of the powers conferred under Rule 3 of the General Financial Rules Vol-I, the Competent Authority has been pleased to declare District & Sessions Judges/Presiding Officers (BPS-21) of the following Consumer Protection Courts in Khyber Pakhtunkhwa, as Drawing and Disbursing Officers under functional classification 04-Economic Affairs-044-Mining & Manufacturing-0443-Administration-044301-Administration for all object classification, with immediate effect:-

1.	District & Sessions Judge, Consumer Protection Court	Peshawar
2.	District & Sessions Judge, Consumer Protection Court	Nowshera
3.	District & Sessions Judge, Consumer Protection Court	Charsadda
4.	District & Sessions Judge, Consumer Protection Court	Mardan
5.	District & Sessions Judge, Consumer Protection Court	Swabi
6.	District & Sessions Judge, Consumer Protection Court	Malakand
7.	District & Sessions Judge, Consumer Protection Court	Swat
8.	District & Sessions Judge, Consumer Protection Court	Chitral
9.	District & Sessions Judge, Consumer Protection Court	Haripur

10	District & Sessions Judge, Consumer Protection Court	Abbottabad
11.	District & Sessions Judge, Consumer Protection Court	Mansehra
12.	District & Sessions Judge, Consumer Protection Court	Kohat
13.	District & Sessions Judge, Consumer Protection Court	Karak
14.	District & Sessions Judge, Consumer Protection Court	Bannu
15	District & Sessions Judge, Consumer Protection Court	Lakki Marwat
16.	District & Sessions Judge, Consumer Protection Court	D.I.Khan
17.	District & Sessions Judge, Consumer Protection Court	Tank

**EMPOWERMENT OF CONSUMER COURT JUDGES OF HAZARA, MALAKAND & KOHAT TO LOOK AFTER THE CONSUMER AFFAIRS OF ADJACENT DISTRICTS**

**GOVERNMENT OF KHYBER PAKHTUNKHWA INDUSTRIES,  
COMMERCE & TECHNICAL EDUCATION DEPARTMENT**

**NOTIFICATION**

Dated 1<sup>st</sup> January, 2016

No. SO-II(IND)3-94/2015 Vol-VI: In pursuance of the Home Department Notification No. SO(Judl)/HD/3-17/2015 Vol-I dated: 1<sup>st</sup> September 2015 the Competent Authority is pleased to authorize the judges of Consumer Protection Courts to look-after the Consumer matters in the adjacent districts as per table below:

S.No	Division	Vacant Districts	District Consumer Court (existing)
1	Hazara	Tor Ghar, Battagram, Kohistan	Mansehra
2	Malakand	Dir Upper, Dir Lower Shangla, Buner	Malakand at Batkhela Swat
3	Kohat	Hangu	Kohat



C.No. 5(7-1)

**(E) INVESTMENT OF POWERS UNDER THE CONTROL OF  
NARCOTIC SUBSTANCE ACT, 1997**

**SESSIONS JUDGES AND ADDITIONAL SESSIONS JUDGES AS  
SPECIAL COURTS UNDER CNSA, 1997**

GOVERNMENT OF <sup>1</sup>[KHYBER PAKHTUNKHWA] HOME AND  
TRIBAL AFFAIRS DEPARTMENT

**NOTIFICATION**

Dated Peshawar the 20<sup>th</sup> March, 1998

No. SO (JUDL)/HD/3-10/98: In exercise of the powers conferred by sub-section (5) of Section 46 of the Control of Narcotic Substances Act, 1997 (XXV of 1997), the Provincial Government, as directed by the Federal Government, in consultation with the Chief Justice of the Peshawar High Court, is pleased to confer the powers of a Special Court having the power to try all offences under the Act on all the Sessions Judges and Additional Sessions Judges in the Province in respect of the cases relating to the territorial limits within which each Sessions Judge or Additional Sessions Judge has jurisdiction to try cases under the Code of Criminal Procedure, 1898 (Act No. V of 1898).

**JUDICIAL MAGISTRATES 1<sup>ST</sup> CLASS AS SPECIAL COURTS  
UNDER CNSA, 1997**

GOVERNMENT OF <sup>2</sup>[KHYBER PAKHTUNKHWA], HOME AND  
TRIBAL AFFAIRS DEPARTMENT,

**NOTIFICATION**

Dated Peshawar the 20<sup>th</sup> March, 1998

No. SO (JUDL)/HD/3-10/98: In exercise of the powers conferred by sub-section (5) of Section 46 of the Control of Narcotic Substances Act, 1997 (XXV of 1997), the Provincial Government, as directed by the Federal Government, in consultation with the Chief Justice of the Peshawar High

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<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>2</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

Court is pleased to confer the powers of a Special Court having the power to try offences punishable with imprisonment for two years or less under the Act on all the Judicial Magistrates of the 1<sup>st</sup> class in the Province in respect of the cases relating to the territorial limits within which each such Magistrate has jurisdiction to try cases under the Code of Criminal Procedure, 1898 (Act No. V of 1898).

C.No. 5A(7-1)

**E-(A) INVESTMENT OF POWERS UNDER KHYBER PAKHTUNKHWA CONTROL OF NARCOTIC SUBSTANCE ACT, 2019**

**SESSIONS JUDGES, ADDITIONAL SESSIONS JUDGES AND JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS AS SPECIAL COURTS UNDER KP CONTROL OF NARCOTIC SUBSTANCE ACT, 2019.**

**GOVERNMENT OF KHYBER PAKHTUNKHWA, HOME AND TRIBAL AFFAIRS DEPARTMENT JUDICIAL WING**

**NOTIFICATION**

**No. SO(Judl)/HD/Gen/P-483/2019/Vol-I:** In exercise of the powers conferred by sub-section (1) of section 22 of the Khyber Pakhtunkhwa Control of Narcotic Substances Act, 2019 (Khyber Pakhtunkhwa Act No. XXI of 2019), as assumed vide Khyber Pakhtunkhwa Control of Narcotic Substances (Amendment) Ordinance, 2020 (Khyber Pakhtunkhwa Ord: No. II of 2020), the Government of Khyber Pakhtunkhwa, in consultation with the Chief Justice, Peshawar High Court, is pleased to designate the Courts of the District and Sessions Judges, Additional District and Sessions Judges and Judicial Magistrates, First Class, in the province of Khyber Pakhtunkhwa, as Special Courts and to confer the Judges of these Courts with powers to try offences under the Act *ibid*, with immediate effect.

C.No. 6(7-1)

**(F) INVESTMENT OF POWERS UNDER KHYBER  
PAKHTUNKHWA ENVIRONMENTAL PROTECTION ACT, 2014**

**SENIOR CIVIL JUDGES AS ENVIRONMENTAL MAGISTRATES  
UNDER KHYBER PAKHTUNKHWA ENVIRONMENTAL  
PROTECTION ACT, 2014**

***PESHAWAR HIGH COURT***

**NOTIFICATION**

Dated Peshawar, the 04<sup>th</sup> November, 2016

**Notification No. M(a)21-A/208:** In exercise of the powers conferred by Sub-Section (1) of Section 25 of the Khyber Pakhtunkhwa Environmental Protection Act, 2014, Hon'ble the Chief Justice has been pleased to empower all the Senior Civil Judges in the Khyber Pakhtunkhwa as Environmental Magistrates to try offences punishable under sub-section (2) and (4) of Section 18 of the Act in respect of the cases falling under their respective Jurisdiction.

C.No. 7(7-1)

**(F)(i) INVESTMENT OF POWERS UNDER PAKISTAN  
ENVIRONMENTAL PROTECTION ACT, 1997**

**No.M (a) 21-A/341-j:** In exercise of the powers conferred by subsection (1) of section 24 of the Pakistan Environmental Protection Act, 1997, (Act No. XXXIV of 1997), the Peshawar High Court is pleased to empower all the Senior Civil Judges/Magistrates First Class in the [Khyber Pakhtunkhwa] to try offences punishable under subsection (2) of section 17 of the Act, as Environmental Magistrates in respect of the cases falling under their respective Jurisdiction.

C.No. 8(7-1)

**(G) INVESTMENT OF POWERS UNDER THE GAS THEFT  
CONTROL ACT, 2016**

**ADDITIONAL DISTRICT AND SESSIONS JUDGES' POWERS  
UNDER SECTION 3 OF THE GAS (THEFT CONTROL AND  
RECOVERY) ACT, 2016.**

GOVERNMENT OF PAKISTAN  
MINISTRY OF LAW AND JUSTICE

Dated Islamabad, the 1<sup>st</sup> August, 2016

**NOTIFICATION**

SRO. NO. (I)/2016- In exercise of the powers conferred by section 3 of the Gas (Theft, Control and Recovery) Act, 2016 (IX of 2016) the Federal Government, in consultation with the Chief Justice of the Peshawar High Court, Peshawar is pleased to confer the powers of the Judge of Gas Utility Court under the said Act on the following, namely: -

1	2
S.No.	Courts
i.	Additional District & Sessions Judge-I, Mansehra.
ii.	Additional District & Sessions Judge-I, Torghar.
iii.	Additional District & Sessions Judge-I, Abbottabad
iv.	Additional District & Sessions Judge-I, Haripur
v.	Additional District & Sessions Judge-I, Mardan
vi.	Additional District & Sessions Judge-I, Charsadda
vii.	Additional District & Sessions Judge-I, Swabi
viii.	Additional District & Sessions Judge-I, Peshawar
ix.	Additional District & Sessions Judge-I, Nowshera
x.	Additional District & Sessions Judge-I, Swat
xi.	Additional District & Sessions Judge-I, Lakki Marwat
xii.	Additional District & Sessions Judge-I, Bannu
xiii.	Additional District & Sessions Judge-I, Dera Ismail Khan
xiv.	Additional District & Sessions Judge-I, Tank
xv.	Additional District & Sessions Judge-I, Kohat
xvi.	Additional District & Sessions Judge-I, Hangu
xvii.	Additional District & Sessions Judge-I, Buner
xviii.	Additional District & Sessions Judge-I, Lower Dir
xix.	Additional District & Sessions Judge-I, Upper Dir
xx.	Additional District & Sessions Judge-I, Shangla Par
xxi.	Additional District & Sessions Judge-I, Chitral
xxii.	Additional District & Sessions Judge-I, Batagram
xxiii.	Additional District & Sessions Judge-I, Kohistan
xxiv.	Additional District & Sessions Judge-I, Karak

xxv.	Additional District & Sessions Judge-I, Balakot
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**CONFERMENT OF JURISDICTION OF GAS UTILITY COURT ON  
ADDITIONAL DISTRICT & SESSIONS JUDGE OF SUB-DIVISIONS  
AND TEHSILS OF KHYBER PAKHTUNKHWA**

**GOVERNMENT OF PAKISTAN  
MINISTRY OF LAW AND JUSTICE  
NOTIFICATION**

Dated, the 8<sup>th</sup> February, 2019

**S.R.O No. 185(I)/2019-** In pursuance of Section (3) of the Gas (theft, Control and Recovery ) Act, 2016, the Federal Government, in consultation with the Chief Justice of the Peshawar High Court, Peshawar is pleased to confer the powers of the Judge of Gas Utility Courts under the said Act upon following Additional District and Sessions Judges of sub-divisions/Tehsils of Khyber Pakhtunkhwa province to exercise the powers for trial of offences under the said Act in their respective territorial jurisdictions namely:-

<b>S. No</b>	<b>District</b>	<b>Tehsil</b>
1.	D.I Khan	Daraban
		Kulachi
		Paharpur
2.	Lakki Marwat	Serai Naurang
3.	Karak	Takht Nusrati
		Banda Daud Shah
4.	Kohat	Lachi
5.	Hangu	Thall
6.	Charsadda	Shabqadar
		Tangi
7.	Mardan	Takht Bhai
		Katlang
8.	Swabi	Lahor
9.	Malakand at Batkhela	Dargai
10	Swat	Matta
		Bahrain
		Babozai
		Khawazakhela
		Kabal

11	Shangla	Puran
		Bisham
		Chakaiser
12	Buner at Daggar	Toota Lai
13	Upper Dir	Wari
		Sheringal
14	Lower Dir	Chakdara
		Samarbagh
15	Chitral	Booni
		Drosh
16	Haripur	Ghazi
17	Abbottabad	Havelian
18	Mansehra	Balakot
		Oghi
19	Battagram	Allai
20	Kohistan at Dassu	Pattan

C.No. 9(7-1)

**(H) INVESTMENT OF POWERS UNDER THE INSURANCE ORDINANCE, 2000**

**DISTRICT AND SESSIONS JUDGE AS INSURANCE TRIBUNAL.  
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN.**

SECP is pleased to inform that in accordance with section 121(1) of the Insurance Ordinance 2000, the Federal Government, in consultation with the Chief Justices of Lahore High Court, Sindh High Court, Peshawar High Court and Baluchistan High Court has conferred powers of Insurance Tribunals in each Province on the District & Sessions Judges specified in column (2) of the table below to exercise territorial jurisdiction specified in column (3) thereof:

S.No (1)	Name of sessions Court (2)	Territorial Limits (3)
1	District & Sessions Judge Lahore	Whole Province of Punjab.
2	District & Sessions Karachi	Whole Province of Sindh.

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3	District & Sessions Judge Peshawar		Whole Province of NWFP.
4	District & Sessions Judge Quetta.		Whole Province of Baluchistan.

Letter  
NoSECP/ID/04/06 Circular No 15 of 2006 Dated 30<sup>th</sup> October, 2006

C.No. **10**(7-1)

**(I) INVESTMENT OF POWERS UNDER THE JUVENILE LAWS**

**ANTI-TERRORIST COURTS TO ACT AS JUVENILE COURTS IN THEIR RESPECTIVE JURISDICTION**

GOVERNMENT OF PAKISTAN  
MINISTRY OF INTERIOR

Islamabad, the 30<sup>th</sup> May, 2012

**NOTIFICATION**

S.R.O(I)/2012:- In exercise of powers conferred by sub-section (i) of section 4 of the Juvenile Justice System Ordinance, 2002 (XXII of 2000), as amended by the Juvenile Justice System (Amendment) Ordinance, 2012 (No.V of 2012), Federal government is pleased to designate the existing Anti-Terrorist, Courts, established throughout the country under the Anti-Terrorism Act, 1997 (XXVII of 1997), to exercise the powers of Juvenile Court in the area of their respective jurisdiction under the Juvenile Court in the area of their respective jurisdiction, under the Juvenile Justice System Ordinance, 2000 (No.XXII of 2000)

**EMPOWERMENT OF DISTRICT AND SESSIONS JUDGES, ADDITIONAL DISTRICT AND SESSIONS JUDGES AND JUDICIAL MAGISTRATE AS JUVENILE COURTS UNDER THE JUVENILE JUSTICE SYSTEM ACT, 2018**

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar the 29<sup>th</sup> January, 2019

**NOTIFICATION**

No. SO(Judl)/HD/Gen/P-312/2020/Vol-I: In exercise of the powers conferred by Section 4 of the Juvenile Justice system Act, 2018 (Act No. XXII of 2018), the Government of Khyber Pakhtunkhwa, in consultation with Peshawar High Court, is pleased to designate all the District and Sessions Judges, Additional District and Sessions Judges and Judicial Magistrates First Class of the Province of Khyber Pakhtunkhwa to act as Juvenile Courts, with immediate effect.



C.No. 11(7-1)

**(J) INVESTMENT OF POWERS UNDER THE KHYBER PAKHTUNKHWA REMOVAL OF ENCROACHMENT ORDINANCE, 1977**

**EMPOWERMENT OF DISTRICT & SESSIONS JUDGES & ADDITIONAL DISTRICT & SESSIONS JUDGES UNDER KHYBER PAKHTUNKHWA REMOVAL OF ENCROACHMENT ORDINANCE, 1977**

**GOVERNMENT OF <sup>1</sup>[KHYBER PAKHTUNKHWA] LOCAL GOVERNMENT, COOPERATION AND SOCIAL WELFARE DEPARTMENT.**

**NOTIFICATION**

Dated 14<sup>th</sup> May, 1977

**No S.O.(LG-II)30-52/76:** In exercise of the powers conferred by section 12 of the <sup>2</sup>[Khyber Pakhtunkhwa], Public (Removal of Encroachment) Ordinance, 1977 (<sup>3</sup>Khyber Pakhtunkhwa, Ord VII of 1977), the Government of the <sup>4</sup>[Khyber Pakhtunkhwa], is pleased to:--

- (a) Constitute the Tribunals consisting of District Judges and Additional Distt Judges in their respective jurisdiction; and
- (b) Direct that each such Tribunal shall exercise its jurisdiction within the area to which the jurisdiction of the District Judge or, as the case may be the Additional District Judge concerned extends.

C.No. 12(7-1)

**(K) INVESTMENT OF POWERS UNDER THE LAND ACQUISITION ACT, 1894**

**SENIOR CIVIL JUDGES AS COURTS UNDER LAND ACQUISITION ACT 1894**

**GOVERNMENT OF WEST PAKISTAN, REVENUE DEPARTMENT**

**NOTIFICATION**

<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>2</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>3</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>4</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

Dated Lahore the 3<sup>rd</sup> September 1969

No. 4840-69/4342-E (F) VI: In pursuance of the provisions contained in clause (d) of section 3 of the Land Acquisition Act, 1894, the Government of West Pakistan is pleased to appoint all the Senior Civil Judges in the divisions of Peshawar and Dera Ismail Khan to perform within their respective jurisdictions all functions of the court under the said Act.

**ADDITIONAL DISTRICT AND SESSIONS JUDGES AS COURTS  
UNDER THE LAND ACQUISITION ACT, 1894**

Dated Peshawar the 28<sup>th</sup> January, 1985

**No. 3/60-HSO (JUDL)/85:** In exercise of the powers conferred by clause (d) of section 3 of the Land Acquisition Act, 1894, the Government of <sup>1</sup>[Khyber Pakhtunkhwa], is pleased to appoint, with immediate effect, all Additional District and Sessions Judges to perform, concurrently with the principal Civil Court, all the functions of the Court under the said Act within their respective jurisdiction.

C.No. 13(7-1)

**(L) INVESTMENT OF POWERS UNDER THE MENTAL HEALTH  
ORDINANCE, 2001**

**DISTRICT JUDGES AS COURTS OF PROTECTION UNDER THE  
MENTAL HEALTH ORDINANCE, 2001**

**GOVERNMENT OF <sup>2</sup>[KHYBER PAKHTUNKHWA] HOME AND  
TRIBAL AFFAIRS DEPARTMENT**

**NOTIFICATION**

Dated Peshawar the 16<sup>th</sup> May, 2005

No. SO(JUDL)HD/3/8/2001: In exercise of the powers conferred by clauses (d) & (j) of Section 2 of the Mental Health Ordinance, 2001 (Order No. VIII of 2001), and in supersession of this Department Notification No.

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<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>2</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

SO (JUDL)/HD/3/ 8/2001 dated 11/04/2005, the Government of <sup>1</sup>[Khyber Pakhtunkhwa], is pleased to designate all the District Judges of the Province as Courts of Protection and empower all the Judicial Magistrates of 1<sup>st</sup> class to perform functions and exercise powers under the said Ordinance.

C.No. 14(7-1)

**(M) INVESTMENT OF POWERS UNDER THE PAKISTAN CRIMINAL LAW AMENDMENT ACT, 1958**

**SESSIONS JUDGES AS SENIOR SPECIAL JUDGES ANTI CORRUPTION (CENTRAL)**

GOVERNMENT OF PAKISTAN, MINISTRY OF LAW

**NOTIFICATION**

Dated Lahore the 25<sup>th</sup> November, 1958

No. F.Adm.15-8/58 (II): In exercise of powers conferred by sub-section (2) of Section 4 of the Pakistan Criminal Law Amendment Act, 1958 (Act of 1958), the Central Government is pleased to declare all the Sessions Judges in East Pakistan and West Pakistan to be the Senior Special Judges for their respective Sessions Division.

**SESSIONS JUDGES, ADDITIONAL SESSIONS JUDGES AND ASSISTANT SESSIONS JUDGES AS SPECIAL JUDGES ANTI CORRUPTION (CENTRAL)**

GOVERNMENT OF PAKISTAN, MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

**NOTIFICATION**

Dated Lahore the 20<sup>th</sup> July, 1966

No. SRO (R)/66: In exercise of the powers conferred by sub-section (1) of Section 3 of the Pakistan Criminal Law Amendment Act, 1958 (XL of 1958), and sub-section (1) of Section 4 thereof, and in super-session of the late Ministry of Law Notification No. F.Amn.15-8/58 (I) dated the 25<sup>th</sup> November 1958, the Central Government is pleased to appoint all Sessions Judges and Additional Sessions Judges and all such Assistant Sessions Judges as have been such Judges for not less three years to be Special Judges and to

<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

direct that each such Special Judge shall have jurisdiction within the territorial limits within which he exercises jurisdiction as a Sessions Judge, Additional Sessions Judge or an Assistant Sessions Judge.

(File No.12(4)/66-A)

**APPOINTMENT OF SENIOR SPECIAL JUDGE ANTI CORRUPTION AND SPECIAL JUDGE ANTI CORRUPTION (PROVINCIAL)**

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

**NOTIFICATION**

Dated Peshawar the 1<sup>st</sup> November, 2003

No. SOE-III/E&AD/1-7/2000: In exercise of powers conferred by sub-section (1) of Section 3 and sub-section (1) & (2) of Section 4 of the Pakistan Criminal Law Amendment Act, 1958 and in partial modification of previous notifications on the subject, the Government of <sup>2</sup>[Khyber Pakhtunkhwa], is pleased:

- (a) To appoint the officers mentioned in column 2 of the table below as Special Judges at places mentioned and having jurisdiction within the local limits of the area shown against each in column 3 & 4 thereof respectively; and
- (b) To declare Mr. Ghulam Muhy-ud-Din Malik as Senior Special Judge Anti-Corruption for the areas falling within the jurisdiction of the officers at serial No. (ii) & (iii) of the table.

**TABLE**

Sr#	Name & Designation of Officer	Headquarter	Jurisdiction
1	2	3	4
(i)	----- --- Special Judge Anti-Corruption	Peshawar	The whole of <sup>3</sup> [Khyber Pakhtunkhwa],
(ii)	----- --	Abbotabad	District of Haripur,

<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>2</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>3</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

	Additional Special Judge, Anti-Corruption		Abbotabad, Mansehra, Batagram & Kohistan
(iii)	Additional Special Judge, Anti-Corruption Southern Districts	Bannu	Districts of Bannu, Laki Marwat, Tank and D.I. Khan

2. The Special Judges may hold their courts at the headquarters of the districts within which the offences have been committed or deemed to have been committed of their respective headquarters.

C.No. 15(7-1)

**(N) INVESTMENT OF POWERS UNDER THE SMALL CLAIMS & MINOR OFFENCES COURTS ORDINANCE, 2002**

**SENIOR CIVIL JUDGES, CIVIL JUDGES AND JUDICIAL MAGISTRATES AS COURTS OF SMALL CLAIMS AND MINOR OFFENCES**

GOVERNMENT OF <sup>1</sup>[KHYBER PAKHTUNKHWA], HOME AND TRIBAL AFFAIRS DEPARTMENT,

**NOTIFICATION**

Dated Peshawar the 5<sup>th</sup> April, 2005

No. SO(JUDL)/HD/12-20/2004: In exercise of the powers conferred by Section 4 of the Small Claims and Minor Offences Courts Ordinance, 2002 (Ord: No. XXVI of 2002), read with Ministry of Law, Justice & Human Rights Division, Government of Pakistan Notification No.SRO-601 (1)/2004 dated 5<sup>th</sup> July,2004, and in supersession of Notification No. SO (JUDL)/HD/1-21/2004 dated 18/11/2004, the Government of the <sup>2</sup>[Khyber Pakhtunkhwa] in consultation with Peshawar High Court Peshawar, is pleased to establish and declare all Courts of Senior Civil Judges, Civil Judges and Judicial Magistrates in the Districts Headquarters and Sub-Division Headquarters as Courts of Small Claims and Minor Offences.

<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>2</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

2. Local limits of jurisdiction of the Courts established under this Notification shall be such as the Peshawar High Court may, from time to time, determine.

## **LOCAL LIMITS OF JURISDICTION OF SMALL CLAIMS AND MINOR OFFENCES COURTS**

### **PESHAWAR HIGH COURT NOTIFICATION**

Dated Peshawar the 23<sup>rd</sup> September, 2005

No. 119-5: In exercise of the powers conferred by sub section 3 of section 4 of the Small Claims and Minor Offences Courts Ordinance, 2002 (Ordinance No. XXIV of 2002), Honorable the Chief Justice and Judges of this Court are pleased to notify that the local limits of jurisdiction of Small Claims and Minor Offences Courts, established vide Government of <sup>1</sup>[Khyber Pakhtunkhwa] Notification No. SO (JUDL)/HD/12-20/2004 dated 05/04/2005, shall be throughout the District in which the court is established.

C.No. 16(7-1)

## **(O) INVESTMENT OF POWERS UNDER THE SUCCESSION ACT, 1925**

### **SENIOR SUB JUDGES POWERS AS DISTRICT JUDGES UNDER THE SUCCESSIONS ACT, 1925**

CIVIL SECRETARIAT, NORTH-WEST FRONTIER PROVINCE,

### **NOTIFICATION**

Dated Peshawar the 5<sup>th</sup> June, 1939

No. 21635-HJ: Under powers conferred by Section 388 of the India Succession Act, XXXIX of 1925, the Governor, <sup>2</sup>[Khyber Pakhtunkhwa] is pleased to invest all Senior Sub Judges in the <sup>3</sup>[Khyber Pakhtunkhwa] with power to exercise the functions of a District Judge under Part X of the said Act.

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<sup>1</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>2</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

<sup>3</sup> Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

**CIVIL JUDGE / JUDICIAL MAGISTRATE GHAZI TO GRANT  
SUCCESSION CERTIFICATE****PESHAWAR HIGH COURT  
NOTIFICATION**

Dated Peshawar the 1<sup>st</sup> February, 2002

No. 15/J: In exercise of the powers conferred by Section 12 of the West Pakistan Civil Courts Ordinance-II of 1962, the Honorable Chief Justice of this Court has been pleased to invest the Civil Judge/Judicial Magistrate, Ghazi with necessary powers to grant/issue Succession Certificate under the provisions of the Succession Act, 1925.

**CIVIL JUDGE / JUDICIAL MAGISTRATE MATTA TO GRANT  
SUCCESSION CERTIFICATE****PESHAWAR HIGH COURT  
NOTIFICATION**

Dated Peshawar the 26<sup>th</sup> March, 2002

No. 38/J: In exercise of the powers conferred by Section 12 of the West Pakistan Civil Courts Ordinance-II of 1962, the Honorable Chief Justice of this Court has been pleased to invest the Civil Judge/Judicial Magistrate-I Matta with necessary powers to grant/issue Succession Certificate under the provisions of the Succession Act, 1925.

**CIVIL JUDGE / JUDICIAL MAGISTRATE LAHORE (SWABI) TO  
GRANT SUCCESSION CERTIFICATE****PESHAWAR HIGH COURT  
NOTIFICATION**

Dated Peshawar the 24<sup>th</sup> May, 2002

No. M (a) 40/2002/59-J: In exercise of the powers conferred by Section 12 of the West Pakistan Civil Courts Ordinance-II of 1962, the Honorable Chief Justice of this Court has been pleased to invest the Civil Judge/Judicial Magistrate-I, Lahore (Swabi) with necessary powers to grant/issue Succession Certificate under the provisions of the Succession Act, 1925.

**CIVIL JUDGES AT SUB-DIVISIONAL HEADQUARTERS TO GRANT SUCCESSION CERTIFICATE****PESHAWAR HIGH COURT, PESHAWAR  
NOTIFICATION**

Dated Peshawar, the 19<sup>th</sup> October, 2007

**No. 439-J:-** In continuation of this Court's Notification Number 15/J dated Peshawar the 01.02.2002, No. M(a)40/2002/59-J dated 24.05.2002 and No1(a)67-VII/2002/42-J dated 05.06.2002, the Chief Justice and Judges of the Peshawar High Court, in exercise of the powers conferred by section 12 of the West Pakistan Civil Courts Ordinance, 1962 (Ordinance No II of 1962), are pleased to invest the following Civil Judges with necessary powers to grant/issue Succession Certificates under the provisions of the Succession Act, 1925.

1. Civil Judge, Shabqadar.
2. Civil Judge-I, Tangi.
3. Civil Judge-I, Takht Bahi.
4. Civil Judge, Dargai.
5. Civil Judge, Puran.
6. Civil Judge, Samarbagh.
7. Civil Judge, Wari.
8. Civil Judge, Totalai.
9. Civil Judge, Booni.
10. Civil Judge, Kulachi.
11. Civil Judge, Paharpur.
12. Civil Judge-I, Takht Nasrati.
13. Civil Judge, B.D. Shah.
14. Civil Judge-I, Balakot.
15. Civil Judge, Oghi.
16. Civil Judge, Kabal<sup>1</sup>

**SENIOR CIVIL JUDGES AUTHORISED UNDER SUCCESSION ACT FOR PROBATE & LETTER OF ADMINISTRATION****PESHAWAR HIGH COURT  
NOTIFICATION**

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<sup>1</sup> Added vide Notification No.300-J Dated 16<sup>th</sup> December, 2011



Dated Peshawar the 20<sup>th</sup>September, 2011.

**No. 306-J** In exercise of the powers conferred by Section 12 of the West Pakistan Civil Courts Ordinance, 1962(Ordinance No II of 1962) the Chief Justice and Judges of this Court are pleased to authorize all Senior Civil Judges in the Province of Khyber Pakhtunkhwa with necessary power to take cognizance of proceedings for granting and revoking probate and letter of administration under the Succession Act 1925 (Act No XXXIX of 1925) in a case falling within the district of the respective jurisdictions.

C.No. 17(7-1)

**(Q) INVESTMENT OF POWERS UNDER THE WEST PAKISTAN URBAN RENT RESTRICTION ORDINANCE, 1959**

**GOVERNMENT OF WEST PAKISTAN**

**FIRST- AND SECOND-CLASS CIVIL JUDGES AND SUBORDINATE JUDGES AS RENT CONTROLLER.**

**NOTIFICATION**

Dated: 12<sup>th</sup> March, 1959

**No. HG-10-2/59:** All First- & Second-Class Civil Judges and subordinate Judges in West Pakistan except Quetta & Kalat Division are appointed as Rent Controller

**GOVERNMENT OF WEST PAKISTAN**

**THIRD CLASS CIVIL JUDGES- AND SUBORDINATE JUDGES AS RENT CONTROLLER.**

**NOTIFICATION**

Dated: 15th July, 1964

**No. Judl 1-17-(4)/59:** All third Class Civil Judges and subordinate Judges in West Pakistan except Quetta & Kalat Division are appointed as Rent Controller

**GOVERNMENT OF WEST PAKISTAN**

**FIRST- & SECOND-CLASS CIVIL JUDGES- AND SUBORDINATE JUDGES AS RENT CONTROLLER.**

**NOTIFICATION**Dated: 24<sup>th</sup> July, 1964

**No. Judl 1-17-(4)/59:** All First- & Second-Class Civil Judges and subordinate Judges in West Pakistan except Kalat Division are appointed as Rent Controller

C.No. **18(7-1)**

**(R) INVESTMENT OF POWERS UNDER THE WEST PAKISTAN CIVIL COURTS ORDINANCE, 1962**

**DISTRICT JUDGES' APPELLATE PECUNIARY POWERS**

**Section 18. Appeals from Civil Judges:** (1) Save as aforesaid, and appeal from a decree or order of a Civil Judge shall lie:-

- (a) to the High Court if the value of the Original suit in which the decree or order was made exceeds <sup>1</sup>[ten million rupees] and
- (b) to the District Judge in any other case.

(2) where the function of receiving any appeal, which lies to the District Judge under the last preceding sub-section has been assigned to an Additional District Judge, the appeal may be preferred to the Additional District Judge.

(3) The High Court may, by notification, direct that appeals lying to the District Judge from all or any of the decrees or orders passed in any original suit by any Civil Judge shall be referred to such other Civil Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly, and the Court of such Civil Judge shall be deemed to be a District Court for the purpose of all appeals so preferred.

**PECUNIARY POWERS OF CIVIL JUDGES**

**PESHAWAR HIGH COURT  
NOTIFICATION**

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<sup>1</sup> Amended Vide the Khyber Pakhtunkhwa Civil Courts (Amendment) Act, 2017. (Khyber Pakhtunkhwa. Act No XVIII of 2017)

Dated Peshawar, the 5<sup>th</sup> June, 2002.

**No. 1(a) 67-VII/2002/42-J:** In exercise of the powers conferred by section 9 of the West Pakistan Civil Courts Ordinance, 1962, the Chief Justice and Judges of the Peshawar High Court, Peshawar, are pleased to order, in supersession of all previous orders issued in this behalf, that for the purpose of determining the pecuniary limits of the jurisdiction exercisable by the Civil Judges in original civil suits and proceedings, Civil Judges be placed in the under mentioned three classes, namely:

Civil Judge 1 <sup>st</sup> Class	To exercise jurisdiction in original Civil suits or proceedings without limit as regards value.
Civil Judge 2 <sup>nd</sup> Class	To exercise jurisdiction in original Civil Suits or proceedings wherein the subject matter in amount or value does not exceed Rs.500,000/- (Five Hundred Thousand).
Civil Judge 3 <sup>rd</sup> Class	To exercise jurisdiction in original Civil Suits or proceedings wherein the subject matter in amount or value does not exceed Rs.100,000/- (One Hundred Thousand).

C.No. 19(7-1)

### **CRITERIA FOR CONFERMENT OF POWERS UPON CIVIL JUDGES**

I am directed to say that the policy as to what civil powers the Civil Judges who have exercised such powers for a certain period prior to 3.7.1963, when the new classifications were introduced, are to be invested with under the classifications, was reconsidered in the Full Court Judges meeting and it was decided that the normal period of inclusion in class III be two years, with effect from the date of the first posting subject to the receipt of good reports of District Judges with regard to the work and conduct of Civil Judges and that the normal period in Class II be three years with effect from the date on which the said powers are first conferred subject to the receipt of good reports from District Judges in respect of the work and conduct of civil Judges.

2. This court's circular letter No.21290-Gaz/XXI.C.35, dated the 13<sup>th</sup> November, 1963, is hereby withdrawn.

3. I am, therefore, to request that before making a reference to this court for the conferment of second Class and First Class civil powers upon Civil Judges the above decision should be kept in view.

(No. 4013 GAZ/XXI.Q.35 Dated 15.03.1964)

(File No. 12 (4) / 66-A)

C.No. **20**(7-1)

**APPOINTMENT OF COURTS AND NOMINATION OF JUDGES FOR TRIAL OF MINERALS RELATED OFFENCES IN MINERALS BEARING AREAS OF THE PROVINCE.**

I am directed to forward the Minerals Development Department letter No. SOE (MDD)/6-1(D&R)/2016/5619 dated: 05.01.2017 and to say that Hon'ble the Chief Justice has been pleased to direct you to nominate a Senior Judicial Magistrate in the mineral bearing districts of the province for enforcement of the provisions under Mineral Sector Governance Act, 2016. However, the Mineral bearing districts can be specified with the help of Mineral Department

(PHC Letter No. 1814-38/Admn, Dated 26<sup>th</sup> January,2017)

C.No. **21**(7-1)

**MAGISTRATE FOR TRAPS.**

I am directed to refer to the subject noted above and to say that it has come to the notice of Hon'ble the Chief Justice that in all cases of raids under prevention of corruption laws, the Sessions Judges do not promptly honor the request for deputing a magistrate, resulting in defeat of the whole proceedings of traps.

You are, therefore, required to depute a magistrate for supervising the raid immediately whenever a request is made by the anti-Corruption Establishment so that timely action is ensured and the proceedings of traps are not thwarted.

(PHC Letter No. 5784-5808/Admn, Dated 18<sup>th</sup> April, 2012)

**SECTION-II****INSTRUCTIONS RELATING TO JURISDICTION OF COURTS**

C.No. 1(7-2)

**CIVIL COURTS TO TRY ALL SUITS OF CIVIL NATURE UNLESS THEIR COGNIZANCE IS BARRED EXPRESSLY OR IMPLIEDLY BY A SPECIAL ENACTMENT.**

I am desired to address you on the subject and to say that there exists some doubt in mind of some of the Presiding Officers of Civil Courts with regard to the return or rejection of plaint without averments made in pleadings of the parties which is wrong under the law and for removing this wrong impression, it is hereby clarified for information and guidance of all concerned.

No doubt Civil Courts are competent to try all suits of Civil nature under section 9 of the Code of Civil Procedure, 1908, unless their cognizance is either expressly or impliedly barred by any other Special Enactment and for this reason plaint is either returned to the party concerned for presentation in the Court of competent jurisdiction under Rule 10 or rejected under Rule 11 (d), inter alia, of order VII Code of the Civil Procedure, 1908. Section 9 of the Code is a general provision of law controlled by provision of any other Special Enactment and as such cannot be construed to operate independently without the provision of the special law. Certain matters have been excluded by the Legislature from the purview of the Civil Courts and in order to carry out intention of the legislature the authority concerned would restrain from taking cognizance as laid down by an Act of the legislature. In this respect, reference can be made with advantage for your guidance and convenience to the following provisions of the Special Enactment as noted against each. These instances, not exhaustive, can further be multiplied.

Sr.No.	Name of the Act with section of law.	Remarks
1	Section 17 of the West Pakistan Waqf Properties Ordinance, 1961.	Bars jurisdiction of the Civil and revenue Courts or any other authority in respect of certain matters mentioned in this section.

2	Section 172 of the West Pakistan Land Revenue, Act, 1967.	It bars jurisdiction of the civil courts in matters coming within the jurisdiction of Revenue Officers.
3	Section 14(2) of the Provincially Administered Tribal Areas, Civil Procedure (Special Provisions) Regulation, 1975.	It bars jurisdiction of the civil courts in respect of all matters/ disputes of civil nature and triable under this Regulation.
4	Section II(i) of the NWFP Public Property (Removal of Encroachment) Act, 1977.	It bars jurisdiction of the civil courts in respect of the matters mentioned in this sub-section(i).
5	Section 162 of the Income Tax Ordinance, 1979.	It bars jurisdiction of the civil courts against any order made under the ordinance.

The Hon'ble Chief Justice and Judges of this Court expect a lot from Presiding Officers of Civil Courts in respect of dispensation of justice strictly in accordance with law. Scrutiny of plaint, an important job, shall not be left to the Court staff for avoiding subsequent legal complications and inconvenience to the parties. Courts are not to wait till attendance of the defendant or his counsel and filing of a written statement but rather these are competent to admit or reject the pleadings on presentation ipso facto in light of the provisions of the Special Enactment.

Pursuant to the above, I am desired to request that the law on the subject as contained in section 9 of the Code of the Civil Procedure read with any other Special Enactment may be implemented in letter and spirit in the ends of justice and for avoiding un-necessary inconvenience-both financial and physical-to the parties concerned. A wrong step, in this respect, not only result in miscarriage of justice but also makes the parties to a suit / proceedings to lose confidence in fair play of the Civil Courts thereby lowering the prestige and dignity of the Courts.

(PHC letter No. 4159-4198/ Admn: Brh: Dated Pesh: the 8<sup>th</sup> April, 1984)

C.No. 2(7-2)

**INDEMNITY AND BAR OF JURISDICTION OF CIVIL COURTS.**

I am directed to address you on the subject and to say that the provisions of Section 28 of Zakat & Ushr Ordinance, 1980(Copy enclosed) should be kept in view while entertaining suits pertaining to the assessment and collection of Zakat & Ushr.

(PHC letter No. 6855-6904 Dated: 12<sup>th</sup> November, 1988)

C.No. 3(7-2)

**INDEMNITY AND BAR OF JURISDICTION OF CIVIL COURTS.**

I am directed to address you on the subject noted above and to say that instructions with regards to the provisions of Section 28 of Zakat & Ushr Ordinance, 1980, as contained in this Courts letter No. 6855-6904 / Admn: Brh: Dated. 12.11.1988 (copy enclosed) issued by this court from time to time are not followed by some of the Judicial Officers.

I am, therefore, directed to say that the Rules and instructions issued on the subject should be followed strictly.

(PHC letter No. 8022-8072/Admn: Brh: Dated Pesh: the 4<sup>th</sup> Nov: 1991)

C.No. 4(7-2)

**JURISDICTION IN CASES REGARDING CUSTODY OF CHILDREN AND GUARDIANSHIP**

I am directed to refer to the subject noted above and to say that it has come to the notice of Hon'ble the Chief Justice that while dealing with the subject cases, majority of the Courts do not follow the provisions of section 5 of the N.W.F.P. Family Courts Act, 1964, read with schedule thereto in the true spirit thereof. The correct legal position is that the Family Court has exclusive jurisdiction to entertain, hear and adjudicate upon the subject cases, as specified in the schedule *ibid*. Under section 25 of the aforesaid Act, a Family Court is a District Court for the purpose of Guardians and Wards Act, 1890. The insertion of non-obstante clause in section 25 gives overriding effect to Guardians and Wards Act 1890, merely vis-à-vis the procedure in

dealing with matters specified in that Act. The jurisdiction nevertheless, lies with the Family Court.

I am, therefore, to ask for strict adherence to the aforesaid provisions of law, to entertain the subject cases as Family Court cases and to enter the same in the register of FC cases. The procedure shall, however, be followed as provided by the Guardians and Wards Act, 1890.

I am further to request that the aforesaid instructions be circulated among all the concerned Courts of your District for compliance and acknowledgement of receipt by them be sent to the Court.

(PHC letter No.3043-66/Admn Dated Peshawar the 11<sup>th</sup> March, 2003)

C.No. 5(7-2)

### **SHARIAH NIZAM-E-ADL REGULATION, 2009**

I am directed to refer to the subject noted above and to say that two matters have been referred to this Court on administrative side, one by Zilla Qazi, Swat and other by Zilla Qazi, dir Lower, involving a common question as to Jurisdiction of Judicial magistrates in Malakand in those cases which were pending before promulgation of the subject Regulation including forest cases.

Through the jurisdiction of a court is a pure judicial matter which is to be decided by the concerned court in a list before it keeping in view all the legal contours.

Nevertheless this office has taken the matter on the request of the two Zilla Qazis mentioned above and has come to the following conclusion, of course, subject to Judicial Pronouncement.

Whenever a new law repeals the earlier law and is re-promulgated then the settled rule of interpretation is that the saving clause of new law is to be followed for all matters including pending cases (1985 PSC 975). In the subject Regulation para 19(3) (e) very much saves, inter alia, all the pending legal proceedings which may be continued or enforced and such penalty, forfeiture or punishment may be imposed as if the law, instrument, custom or usage had not been repealed or ceased to have effect, as the case may be. It may be added here that in the year 1994 when PATA (Nifaz-e-Nizame-e-Shariah) Regulation was promulgated and similar question including fate of pending cases came up before this court in a Reference entitled "Abdul Samad and other Versus Painsa Muhammad and others" reported in PLD 1997 Peshawar 35 and in that it was decided that through paragraph 11 2(e) of PATA (Nifaz-e-Nizame-e-Shariah) regulation 1994 saves pending actions but as the NWFP PATA Regulation I of 1975 and NWFP PATA Regulation



II of 1975 were repealed with effect from 12<sup>th</sup> day of February 1994 on the basis of judgment of August Supreme Court reported in PLD 1995 SC 281, therefore, the fate of the pending cases was decided in the Reference in the light of the judgment of the august Supreme Court and not in the light of paragraph 11 (2)(e) of Regulation of 1994. The said judgment of the Supreme Court saved only those cases which had attained finality and not otherwise.

But in the present case the consequence of repeal qua the pending cases shall be ensuring from para 19 itself which is pari materia with section 6 of West Pakistan General Clauses Act 1956 and Article 264 of the Constitution of the Islamic Republic of Pakistan. The new cases shall, however, be dealt with in accordance with new law conferring jurisdiction of all those cases falling in schedule-III of the new Regulation including local and special laws like forest laws, traffic laws and the like in which punishment is not more than three years, cases under PPC of similar punishment, and other as mentioned in the said schedule.

(PHC letter No.1341-64/Admn Dated Peshawar, 27<sup>th</sup> January, 2010)

C.No. 6(7-2)

### **PARALLEL JUDICIAL PROCEEDINGS**

I am directed to refer to the subject noted above, and to say that it has come to the notice of Hon'ble the Chief Justice that parallel judicial proceedings involving matters falling within the jurisdiction of ordinary Courts are being conducted by non-judicial entities.

You are, therefore, requested to submit details of any such proceedings, if any, conducted or being conducted within your domain, for further necessary action, please.

(PHC letter No. 2723-39/Admn Dated Peshawar the 28<sup>th</sup> February, 2012)

C.No. 7(7-2)

### **CIVIL COURTS TO TRY ALL SUITS OF CIVIL NATURE UNLESS THEIR COGNIZANCE IS BARRED EXPRESSLY OR IMPLIEDLY BY A SPECIAL ENACTMENT**

I am directed to refer to this Court's letter No. 4159-4198/Admn dated 8<sup>th</sup> April 1984, on the subject noted above and to say that Civil Courts have jurisdiction to try all suits of civil nature unless their cognizance is either expressly or impliedly barred by any other Special Enactment.

Instances have come to the notice of Competent Authority that some of the Civil Courts have assumed jurisdiction in flagrant violation of Income Tax/Sales Tax laws.

Hon'ble the Chief Justice has taken serious notice of the aforementioned violation of law and has been pleased to direct that the District Judges/Senior Civil Judges, being marking Courts, will be held responsible for entrustment of suits/appeals to the Civil Judges/Additional District Judges where the jurisdiction of Civil Courts is specifically barred under the above law. Similarly, the Superintendent/Clerk of Court of the above Courts will be held responsible for not pointing out the bar of jurisdiction at the time of scrutiny.

You are, therefore, directed to circulate the above-mentioned directive amongst all the Judicial Officers in your respective districts and insist upon them for strict compliance of the above provisions of law.

(PHC letter No.12184-12207/Admn Dated 11<sup>th</sup> October 2013)

C.No. 8(7-2)

**ENTERTAINMENT OF SUITS BY THE CIVIL COURTS, WHERE JURISDICTION IS EXPRESSLY OR IMPLIEDLY BARRED BY A SPECIAL ENACTMENT**

I am directed to refer to this Court's letter No. 4159-4198/Admn: Brh: Dated Pesh: the 8<sup>th</sup> April, 1984 (available at page No. 351 of Judicial Esta Code Revised Edition 2011) and to say that attention of all the Judicial Officers may be drawn towards the following important contents of the said letter, reproduced for ready reference.

“Scrutiny of plaint, an important job, shall not be left to the Court staff for avoiding subsequent legal complications and inconvenience to the parties. Courts are not to wait till attendance of the defendant or his counsel and filing of a written statement but rather these are competent to admit or reject the pleadings on presentation ipso facto in light of the provisions of the Special Enactment.

Pursuant to the above, I am desired to request that the law on the subject as contained in section 9 of the Code of the Civil Procedure read with any other Special Enactment may be implemented in letter and spirit in the ends of justice and for avoiding un-necessary inconvenience-both financial and physical-to the parties concerned. A wrong step, in this respect, not only result in miscarriage of justice but also makes the parties to a suit / proceeding to lose confidence in fair play of the Civil Courts thereby lowering the prestige and dignity of the Courts.”

The Competent Authority is, therefore, pleased to direct that the above-mentioned guidelines, be followed in letter and spirit, failing which strict disciplinary action shall be taken against the delinquent judicial officer, as per rules, including the adverse entry in his PER.

(PHC letter No. 10882-906 Dated Peshawar the 11<sup>th</sup> July, 2014)

C.No. 9(7-2)

### **UK-PAKISTAN PROTOCOL ON CHILDREN MATTERS**

I am directed to forward herewith copy of letter NO. F. AR(A)/2012. SCA dated 22.12.2012, on the subject noted above, alongwith enclosure, received from the Assistant Registrar (Admn), Supreme Court of Pakistan, Islamabad, with the request to circulate the same amongst all the Judicial Officers within the district for information and guidance in dealing with the subject matter.

(PHC letter No. 451-74/Admn: Dated Pesh the 12.01.2013)

The President of the Family Division and the Hon. Chief Justice of Pakistan in consultation with senior members of the family judiciary of the United Kingdom (“the UK”) and the Islamic Republic of Pakistan (“Pakistan”), having met on 15<sup>th</sup> to 17<sup>th</sup> January 2003 in the Royal Courts of Justice in London reach the following consensus.

#### **WHEREAS:**

- (a) Desiring to protect the children of the UK and Pakistan from the harmful effects of wrongful removal or retention from one country to the other;
- (b) Mindful that the UK and Pakistan share a common heritage of law and a commitment to the welfare of children;
- (c) Desirous of promoting judicial cooperation, enhanced relations and the free flow of information between the judiciaries of the UK and Pakistan; and
- (d) Recognizing the importance of negotiation, mediation and conciliation in the resolution or family disputes;

#### **IT IS AGREED THAT:**

1. In normal circumstances the welfare of a child is best determined by the courts or the country of the child’s habitual/ordinary residence.

2. If a child is removed from the UK to Pakistan, or from Pakistan to the UK without the consent of the parent with a custody/residence order or a restraint/interdict order from the court of the child's habitual/ordinary residence, the judge of the court of the country to which the child has been removed shall not ordinarily exercise jurisdiction over the child, save in so far as it is necessary for the court to order the return of the child to the country of the child's habitual/ordinary residence.
3. If a child is taken from the UK to Pakistan, or from Pakistan to the UK, by a parent with visitation/access/contact rights with the consent of the parent with a custody/residence order or a restraint/interdict order from the court of the child's habitual ordinary residence or in consequence of an order from that court permitting the visit and the child is retained in that country after the end of the visit without consent or in breach of the court order, the judge of the court of the country in which the child has been retained shall not ordinarily exercise jurisdiction over the child, save in so far as it is necessary for the court to order the return of the child to the country of the child's habitual/ordinary residence.
4. The above principles shall apply without regard to the nationality, culture or religion of the parents or either parent and shall apply to children of mixed marriages
5. In case where the habitual/ordinary residence of the child is in dispute the court to which an application is made should decide the issue of habitual/ordinary residence before making any decision on the return or on the general welfare of the child, and upon determination of the preliminary issue as to habitual/ordinary residence should then apply the general principles set out above.
6. These applications should be lodged by the applicant, listed by the court and decided expeditiously.
7. It is recommended that respective governments of the UK and Pakistan give urgent consideration to identifying or establishing an administrative service to facilitate or oversee the resolution of child abduction cases (not covered by the 1990 Hague Convention on the civil aspects of international Abduction)
8. It is further recommended that the judiciaries, the legal practitioners and the non-governmental organizations in the UK and Pakistan use their best endeavors to advance the objects of this protocol.
9. It is agreed that the UK and Pakistan shall each nominate a judge of the superior court to work in liaison with each other to advance the objects of this protocol

C.No. **10**(7-2)

**DIRECTIVE OF HON'BLE THE CHIEF JUSTICE.**

I am directed to say that Hon'ble the Chief Justice has directed that no suit for correction/alteration of entries in the revenue record should be entertained by Civil Courts, unless the private land owners, who are likely to be affected by the decree of the court, are impleaded therein besides the officials of the Revenue Department.

(PHC Letter No. 6279-6303/Admn Dated 01<sup>st</sup> June, 2016)

C.No. **11**(7-2)

**INSTRUCTIONS**

The Competent Authority, with a view to ensure the obligatory obedience to the Constitution, and streamlining the jurisdiction of courts in certain matters of public interest, has been pleased to direct for issuance of the following guidelines for compliance at all levels of the courts in addition to the instructions already issued from time to time and available in the judicial Estacode: -

- Article 5 of the Constitution of Islamic Republic of Pakistan commands for obedience to the Constitution as the inviolable obligation of every citizen wherever he may be deviation from the constitution on part of the judges amounts to misconduct.
- Encroachment of public property amounts to infringement of public interest. Removal of such encroachment is an administrative matter. The administrative pursuit in accordance with law, in absence of valid reasons, should not be frustrated by grant of stay orders. Invariable approach of granting stay orders in encroachment cases of public property is tantamount to stopping the operation of laws of encroachment, and in turn, it is the violation of law.
- When the jurisdiction of ordinary courts in the service matters is excluded under law, the entertainment of cases in such matters and particularly granting of stay orders is unlawful and it should be avoided at all levels of the ordinary courts.

- Bail matters in the criminal cases usually becomes a cause of delay for the process of investigation and ultimately for commencement of trials. The timeframe given from time to time for disposal of all types of bail matters should be adhered to positively. The delay in disposal of pre arrest bail applications and bail cancellation application is particularly deplorable. It is essential for courts at all levels to discourage the delay in disposal of bail matters by meticulous observance of the timeframe for their disposal given in various instructions issued from time to time.
- Careless exercise of jurisdiction regarding ad-interim stay matters, particularly omission in their timely disposal, is highly undesirable. All interlocutory stay matters for the time being pending in any courts should be heard and disposed of in accordance with law immediately by fixation of short date of hearing. In future, the courts at all levels should ensure the disposal of interim stay matters within the legal timeframe, failing which, the concerned judicial officer(s) will be held accountable.
- Gas Tariff cases, whether pending before the High Court or Gas Utility Courts at district levels should be disposed of in accordance with law, as early as possible. Regards should be had to the facts while granting stay orders in such cases, whether it is permissible under the law or not. In case any matters of interim stay order subject to its permissibility under the law is entertained, it should be disposed of within fifteen days positively. If not, the accountability shall follow.
- The Hon'ble Supreme Court of Pakistan and this Court from time to time direct for circulation of judgments containing directives relating to administration of justice and due process of law. All the courts are required to comply with such directives in letter and spirit of the judgments so far circulated or may be circulated from time to time.

(PHC Letter No. 966-1020/Admn, Dated 14<sup>th</sup> January, 2019)

C.No. 12(7-2)

**DIRECTIVES OF THE HON'BLE CHIEF JUSTICE**

I am directed to draw your attention to Article 212 of the Constitution, and to convey that the terms and conditions of service of a civil servant includes transfer and posting, which is a matter beyond the jurisdiction of all courts including the Civil Courts.

Thus, in future due attention may be given to the ibid article and its compliance be ensured in letter and spirit.

Likewise, in matters pertaining to medical teaching institutions, the court ought to determine at the very outset the status of the employees so as to say, civil servant or institutional employees, as the case may be.

This may be circulated amongst all the courts within your respective district for compliance, please.

(PHC Letter No.8501-34/Admn, Dated 17<sup>th</sup> April, 2019)

**SECTION-III**  
**INSTITUTION AND DISTRIBUTION OF BUSINESS**

C.No. 1(7-3)

**DELEGATION OF POWERS**

I am directed to address you on the subject cited above and to say that the District and Sessions Judges leaving the Districts on leave, while delegating their powers under section 17(4) of the Code of Criminal Procedure 1898, do not simultaneously delegate their powers for disposal of Civil business as required under Sections 21 and 22 of the West Pakistan Civil Courts Ordinance, 1962. This omission in violation of the Law on the subject adversely effects the Civil business and smooth running of Administrative matters on the one hand and creates additional work for the High Court on the other.

2. Pursuant to the above, Hon'ble Chief Justice has been pleased to order that Provisions of Sections 21 and 22 of the West Pakistan Civil Courts Ordinance, 1962 shall be complied with in letter and spirit and copy be always sent to this High Court for information.

(PHC letter No. 6458-69 Dated August 30<sup>th</sup>, 1986)

C.No. 2(7-3)

**MULTIPLICITY OF SUITS / APPEALS CURBING OF**

I am directed to address you on the subject and to say that due to low institution of suits and pendency thereof in the past justice was used to administer by the Courts quickly and promptly and there was no chance of multiplicity of suits but the population explosion and the technological advancement necessitated the establishment of new divisions / districts and the ultimate creation of courts of law. Now at present many courts both Civil & Criminal are functioning in each district and experience has shown that due to multitude of courts the chronic litigants have taken and do take undue advantage of it by adopting the usual delaying tactics. They also never hesitate in institution of false, vexatious and frivolous suits and raising baseless objections regarding the same subject matter already adjudicated upon once by a court of competent jurisdiction. This is all done by suppressing the material facts and not disclosing the factum of previous litigation on the same subject matter with the sole object to deprive the opposite party from the fruit of a valid decree. The importance of prompt litigation needs no emphasis. Litigation at the present judicial set-up has



assumed a somewhat lengthy course to which a chronic litigant also contributes a major share and, therefore, no further delay on a subject already delayed is desirable in the ends of justice. Justice delayed is justice denied. This state of affairs not only spoils the notions of quick justice on the one hand but also brings discredit to the fair name of judiciary on the other besides ultimate loss of public confidence in the judiciary and the Government and as such Hon'ble the Chief Justice and Judges of this Court have seriously viewed it.

2. In view of the above, Hon'ble Chief Justice and Judges have been pleased to decide that distribution of Civil suits / appeals by the Senior Civil Judge / District Judge, as the case may be, shall be made police station-wise amongst rest of the judicial officers in each district and a better statement / certificate regarding pendency or otherwise of a suit / appeal in another court shall always be recorded in the pleadings on affidavit as required under the law. Hon'ble the Chief Justice and Judges further hope and trust that all courts would comply with these instructions in letter and spirit and cases of default, in this respect if any, shall be reported to this Court for necessary action.

(PHC letter No. 10708-777 Dated: 29<sup>th</sup> December, 1986)

C.No. 3(7-3)

### **DISTRIBUTION OF CASES**

It has come to the notice of the Hon'ble Chief Justice of this Court, that the distribution of judicial work in the Subordinate Courts is not equitable with the result that pendency of cases in some courts in the District is very high. This causes delay in the disposal of cases and also affects the quality of work done by the Subordinate Judges.

In view of the above, the Hon'ble Chief Justice has been pleased to order, that all the District and Sessions Judges/Senior Civil Judges in the Province shall make equal distribution of cases amongst the subordinate Courts in their respective Jurisdiction. These Instructions shall be strictly followed in letter and spirit.

(PHC letter No. 13971-14050./Admn. dated 22<sup>nd</sup> December, 1987)

C.No. 4(7-3)

**CAUSE DIARY**

I am directed to say that it has been observed that some Senior Civil Judges/Civil Judges fix a large number of cases for a particular day and then postpone some of them for want of time. This practice not only offends against the High Court Rules and Orders but also entails delay in disposal of the cases and inconvenience to the litigant public.

It is, therefore, requested that you should pay personal attention to the cause diary and fix an adequate cause list, which could be conveniently got through during the court hours.

(PHC letter No. 7-56, Dated 31<sup>st</sup> July, 1988)

C.No. 5(7-3)

**PREPARATION OF DAILY CAUSE LIST**

I am directed to address you on the subject noted above and to say that Hon'ble the Chief Justice of this Court has been pleased to order that all the Judicial Officers in the Province should pay personal attention to the cause diary and should not leave the fixing of dates to the ministerial staff and that the daily cause list should be adequate by all standards and should be prepared with application of mind and fore-thought so that it could be got through without difficulty and adjournments, during the court hours.

(PHC letter No. 1014 – 93 / Admn: Brh: Dated. Pesh: the 7<sup>th</sup> March, 1990)

C.No. 6(7-3)

**COMPLIANCE OF SECTION 23(1), 25 OF THE CIVIL COURTS ORDINANCE, 1962 (ALTERNATIVE ARRANGEMENTS)**

I am directed to invite your attention to the above provisions of Law. Hon'ble the Chief Justice and Judges of this Court have desired for the strict compliance thereof.

Alternative arrangements for the receipt of judicial matters on the eve of the absence of the Presiding Officers all over as contemplated by the Law are a legal requirement. A minor omission at times results in protracted and expensive litigations. Two such cases have recently been noticed by the

Supreme Court and relevant Law has been laid down on the subject. Other relevant provisions such as are contained in General Clauses Acts, High Court Rules and Orders were also discussed. The reported judgments are :-

1)- PLD 1991SC 47 = PLJ 1992 SC 101

2)- PLD 1991 SC 884.

I am, therefore, directed to convey the anxiety of the Hon'ble Chief Justice that the entire Law on the subject read with the above judgments of the Supreme Court be gone through and the desired arrangements made at all level in accordance with such provisions.

(PHC letter No. 3585-3664/Admn.Brh. Dated Peshawar the 23<sup>rd</sup> May, 1993)

C.No. 7(7-3)

#### **MAINTENANCE OF ATTENDANCE / PESHI REGISTERS.**

I am directed to ask you that Honorable the Chief Justice has been pleased to introduce a system of maintaining attendance/Peshi Register in such a manner that the same may be kept blank for first seven days of the month by the Presiding Officer so that he may be in a position to fix old cases of his court coming before him for disposal during the said days of the month.

(PHC letter No.7123-7222/ Admn. Brh. Dated Pesh: the 19<sup>th</sup> Sep: 1993)

C.No. 8(7-3)

#### **DISTRIBUTION OF POLICE STATION AT A SESSIONS DIVISION.**

During recent visit to some Districts, the Hon'ble Chief Justice has observed that Sessions Judges have distributed police stations among the Additional Sessions Judges working at a station, despite the fact that this practice militates against the spirit of law which invests the Sessions Judges with the power of supervision and control and at the same time responsibility with respect to criminal cases in a session division.

I am, therefore, to ask for discontinuance of this practice forthwith with the direction that henceforth all the criminal cases including bail and other applications pertaining to sessions Court in a district shall initially be received by the Sessions judge who shall further make over the same to the Additional Sessions Judges performing their duties in the Sessions Division.

(PHC letter No. 2339-60 Dated Peshawar the 21<sup>st</sup> March, 1998)

C.No. 9(7-3)

**DISTRIBUTION OF POLICE STATIONS AT A SESSIONS DIVISION.**

In continuation of this Court's circular letter No.2339-60 dated: 21.3.1998, I am directed to say that Hon'ble the Chief Justice of this Court has been pleased to order that distribution of the Police Stations amongst the Addl: Sessions Judges may be continued for the purpose of grant of Remand and legal custody only.

(PHC letter No.2954-3002/ Dated Peshawar the 14/4/98)

C.No. 10(7-3)

**DISPOSAL OF SUITS AGAINST THE GOVERNMENT**

I am directed to say that it has been observed that suits against the Government are entrusted to those Civil Judge who have not yet acquired sufficient experience to efficiently dispose of the said suits or other interlocutory matters in such suits. Needless to mention that suits against Government involve important issues concerning general public and delay in the disposal of such cases not only results in inconvenience to the public at large but also exposes the judiciary to unnecessary criticism besides causing heavy loss to the national exchequer.

2)- I am, therefore, to request for issuance of necessary directions to the Senior Civil Judges to follow the provisions in this regard contained in Section 24 of the Civil Courts Ordinance, 1962, and either entertain suits against Government themselves or entrust the same to senior most 1<sup>st</sup> Class Civil judges at the station in order to ensure efficient and proper handling of these cases.

(PHC letter No. 1790-1811 Dated Peshawar the 09<sup>th</sup> March, 1999)

C.No. 11(7-3)

**INSTITUTION OF PROCEEDINGS UNDER SUB SECTION (3) OF SECTION 190 OF THE CODE OF CRIMINAL PROCEDURE, 1898**

I am directed to say that under section 190(3) of the Code of Criminal Procedure, 1898, a Magistrate taking cognizance under sub-section (1) of an offence triable exclusively by a Court of Sessions shall, without recording any evidence, send the case to the Court of Sessions for trial.

- 2) - Before separation, the Magistrates used to send cases, which were triable exclusively by a Court of Session, on a proforma resembling the one enclosed herewith.
- 3) - The enclosed proforma has been modified in order to conform to the requirement in the post separation period.
- 4) - I am to direct all the Judicial Magistrates in the Province that henceforth the cases triable exclusively by a Court of Sessions shall be sent for trial to the Court of Sessions on the proforma, specimen of which has been enclosed.

(PHC letter No. 5129-5278 Dated Peshawar the 6.7.2000)

C.No. **12**(7-3)

### **WORK LOAD MANAGEMENT IN CIVIL AND CRIMINAL COURTS**

I am directed to refer to the subject noted above and to say that while reviewing pendency in the Courts of Civil Judges-cum-Judicial Magistrates in different District, his lordship the Chief Justice was pleased to observe that the work load needs to be equally distributed among the Courts, so far as practicable, in order to get optimum results.

I am, therefore, to request for distributing the work load accordingly. Statements showing pendency in all Courts before and after such distribution may please be intimated to this Court within three days.

(PHC letter No. 4714-4737/Admn: Dated Peshawar the 08.06.2005)

C.No. **13**(7-3)

### **GRANT OF GUARDIANSHIP CERTIFICATE AT SUB-DIVISIONAL HEADQUARTERS**

I am directed to refer to the subject noted above and to say that it has come to the notice of Hon'ble the Chief Justice that the Courts at sub-divisional Headquarters do not issue guardianship certificates which result in hardships to the litigant public who had to come to courts at district headquarters for the purpose.

Attention is invited to this Court letter No. 3046-66/Admn dated 11.03.2003 (C. No. 4(4-1), pg No. 296 Judicial Estacode) which

clarifies the legal position vis-à-vis the jurisdiction of Family Courts in the subject issue.

You are, therefore, once again asked to follow the aforesaid instructions and necessary measures be taken to ensure that one family court at tehsil headquarters be entrusted with the business of issuing guardianship certificate.

(PHC letter No.10293-10317/Admn Dated Peshawar, 19<sup>th</sup> October, 2007)

C.No. **14**(7-3)

### **TRAFFIC MAGISTRATES**

I am directed to refer to the subject noted above and to say that it has come to the notice of this court that in some districts no magistrate has been designated to deal with traffic offences.

You are, therefore, requested to check the position in your district and get it ensured that a magistrate is designated for the purpose under intimation to this court. The court house of such magistrate should also bear the plate with such designation in order to make it known to the public.

(PHC letter No.1640-63/Admn Dated Peshawar, 03<sup>rd</sup> February, 2010)

C.No. **15**(7-3)

### **EQUALIZATION OF PENDENCY**

I am directed to refer to the subject noted above and to say that equalization of pendency and equal distribution of cases amongst different courts at a station is the prime responsibility of District & Sessions Judge and Senior Civil Judge. Disparity of number of cases amongst different courts causes multiple hardships for concerned presiding officers as well as the litigant public. Such distribution is also a requirement of recently launched DPEP.

You are, therefore, required to evolve a mechanism to ensure that cases are distributed amongst different courts and timely steps are taken whenever balance is disturbed.

(PHC letter No.2646-95/Admn Dated Peshawar, 20<sup>th</sup> February, 2010)