

**SYARIAH COURT CIVIL PROCEDURE ENACTMENT
2004**

**SYARIAH COURT CIVIL PROCEDURE
(THE CONDUCT OF SYARIAH COURT THROUGH REMOTE
COMMUNICATION TECHNOLOGY) RULES 2022**

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Sabah LawNet

SYARIAH COURT CIVIL PROCEDURE ENACTMENT 2004

SYARIAH COURT CIVIL PROCEDURE (THE CONDUCT OF SYARIAH COURT THROUGH REMOTE COMMUNICATION TECHNOLOGY) RULES 2022

IN exercise of the powers conferred by paragraph 247(1)(e) of Syariah Court Civil Procedure Enactment 2004 [No.10 of 2004], the Syariah Court Rules Committee makes the following rules —

PART I PRELIMINARY

Citation and commencement

1. (1) These Rules may be cited as the Syariah Court Civil Procedure (The Conduct of Syariah Court Through Remote Communication Technology) Rules 2022.

(2) These Rules is deemed to have come into operation on 2 June 2022.

Interpretation

2. In these rules, unless the context otherwise requires —

“attend” includes the appearance by any person using electronic devices, mechanical or other means permitted by the Court;

“combined method” means a method that combines the use of remote communication technology and through physical;

“Courts Enactment” means the Syariah Courts Enactment 2004 [No.6 of 2004];

“Court” or “Syariah Court” has the same meaning assigned to it under subsection 2(1) of the Courts Enactment;

“Enactment” means the Syariah Court Civil Procedure 2004 [No. 10 of 2004];

“Form” means forms prescribed in the Schedule;

“Judge” or “*Syar’ie* Judge” has the same meaning assigned to it under subsection 2(1) of the Courts Enactment;

“party” or “parties” has the same meaning assigned to it under section 17 of the Enactment;

“Practice Direction” means any direction prescribed under rule 5;

“proceeding” means any proceeding, which includes a proceeding through remote communication technology, whether in open Court or in Chambers and includes summon or an application at any stage of a proceeding which is deemed to have started when an action is filed;

“Registrar” has the same meaning assigned to it under subsection 2(1) of the Courts Enactment;

“remote communication technology” means a live video network, live television network or any other means of digital or electronic communication; and

“State Chief *Syar’ie* Judge” has the same meaning assigned to it in subsection 2(1) of the Courts Enactment.

PART II APPLICATION

Application

3. These Rules shall apply to any court proceeding conducted through a remote communication technology.

Direction by the Judge or Registrar

4. (1) The Judge or Registrar may, subject to the Practice Direction issued under rule 5, direct that any cause or matter under these Rules to be heard or any proceeding is to be conducted through a remote communication technology as approved by the Court.

(2) The power conferred on the Judge or Registrar in subrule (1) may be

exercised on its own motion or upon application made by any party to a proceeding.

(3) Where an application is made under subrule (2), the Judge or Registrar may give directions as to the further conduct of the proceeding in relation to the cause or matter.

Practice Direction of the State Chief *Syar'ie* Judge

5. For the purpose of these Rules, the State Chief *Syar'ie* Judge may issue a Practise Direction if in his opinion that the circumstances warrant and it is necessary for —

- (a) the interest of the dispensation of justice;
- (b) the public safety;
- (c) the public security;
- (d) the public health or propriety; or
- (e) other sufficient reason to do so.

Cases permitted for hearing

6. Hearing through a remote communication technology shall be permitted for a case originated by way of summon or application or for any cases at the stage of revision or appeal.

Procedure for application

7. (1) Any party to a proceeding under subrule 4(2), shall file his application in the court in the manner as prescribed in Form KJJ1 and shall serve such application to the other party of the proceeding.

(2) Upon receiving of a copy of Form KJJ1, the recipient shall file his consent or objection in the court in the manner as prescribed in Form KJJ2 within seven days from the date of the receipt thereof and shall serve the same to the applicant.

(3) The Judge or Registrar shall, after considering the application made under this rule, issue a notice of direction in the manner as prescribed in Form KJJ3, either to allow or disallow the application.

Place of proceeding

8. (1) The place of the proceeding of each Judge or Registrar shall be heard in the Court.

(2) For the purpose of these Rules, the attendance of the parties or witness shall be in their respective places which have the real time access that enable such proceeding to be conducted live at their position respectively where it maybe accessible by the Judge or Registrar.

(3) For the purpose of subrule (2), the place in which the Court is held to conduct the proceedings of any cause or matters, or hold any inquiry, through a remote communication technology shall be deemed to be conducted within the local limit jurisdiction assigned to each Judge or Registrar.

The attendance of any party, etc. as witness or party through a remote communication technology

9. (1) For the purpose of rule 8, in relation to the attendance of any party, etc. as witness or party, in any proceedings or the evidence to be given in person, the Judge or Registrar may, subject to conditions specified in subrule (2) has been satisfied, direct the party, etc. as witness or party to attend and to give evidence in those proceedings, by means of remote communication technology.

(2) The presence of a prisoner in any proceedings by such technology shall be conducted, if —

(a) the parties and the Officer in Charge referred to under the Prison Act 1995 [Act 537] consent to the use of the remote communication technology; and

(b) the Judge or Registrar is satisfied that sufficient administrative and technical facilities and arrangements are made at the place where the person, witness or prisoner is to make an appearance or to give evidence.

(3) Appearance and evidence given through remote communication technology in any proceedings in accordance with a Judge's or Registrar's direction under

subrule (1) are taken to be appearance and evidence given in person in those proceedings and form part of the record of the proceedings of that Court or before the Registrar.

Public broadcasting and records of proceedings

10. (1) If the Judge or Registrar directs that proceedings are to be conducted wholly through a remote communication technology, the Judge or Registrar may direct that —

- (a) the proceedings are to be broadcasted (in the manner specified in the direction) for the purpose of enabling members of the public to see and hear the proceedings; or
- (b) a recording of the proceedings is to be made (in the manner specified in the direction) for the purpose of enabling the Judge or Registrar to keep an audio-visual record of the proceedings.

(2) Any recording made by the Court under this rule shall be deemed to be the official record of the Court.

(3) A direction under this rule may be made in relation to the whole or to part of the proceedings concerned.

Power to revoke direction

(11) The Judge or Registrar may revoke, suspend or vary the direction made under rule 4 if —

- (a) the remote communication technology stops working and it would cause unreasonable delay to wait until a working system becomes available;
- (b) it is necessary for the Judge or Registrar to do so to comply with its duty to ensure that the proceedings are conducted fairly to the parties in the proceedings;
- (c) there has been a material change in the circumstances after the judge or registrar has made an order; or
- (d) it is necessary in the interest of justice to do so.

Judgement

12. (1) Section 130 of the Enactment shall apply to every judgment or order pronounced or delivered in the proceeding held through a remote communication technology.

(2) Where judgment or order is pronounced or delivered in the proceeding held through a remote communication technology, details of the proceeding shall be reflected in the judgement or order.

(3) Subject to rule 8, any judgement or order pronounced through a remote communication technology shall be deemed to be accepted by the party in person.

(4) Notwithstanding this rule, a judgment or order may be delivered in any other means agreed by the parties.

PART III
MISCELLANEOUS

Transitional

13. Subject to rule 6, the Judge or Registrar may direct for a proceeding that has been physically conducted or through remote communication technology before the coming into force of this method to proceed physically, through remote communication technology or through combined method.

SCHEDULE

SYARIAH COURT CIVIL PROCEDURE ENACTMENT 2004

SYARIAH COURT CIVIL PROCEDURE
(THE CONDUCT OF SYARIAH COURT THROUGH REMOTE COMMUNICATION
TECHNOLOGY) RULES 2022

Form KJJ1 [Subrule 7(1)]

IN THE SYARIAH APPEAL / HIGH / SUBORDINATE
COURT.....
AT.....

SUMMON / APPLICATION NO.: YEAR 20.....

BETWEEN

..... APPELLANT / PLAINTIFF / APPLICANT

(I/C:)

AND

..... DEFENDANT / RESPONDENT

(I/C:)

To : The Registrar
Syariah Court of

APPLICATION TO CONDUCT PROCEEDING THROUGH REMOTE
COMMUNICATION TECHNOLOGY

1. I I/C No. am the
Appellant / Plaintiff / Applicant / Defendant / Respondent in this case.

2. I apply to this Honorable Court for the proceeding of this case to be
conducted through Remote Communication Technology because:

2.1.....

.....

2.2.....

.....

Dated:

.....
*Appellant / Plaintiff / Applicant / Defendant/
Respondent / Syarie Lawyer*

Sabah LawNet

SYARIAH COURT CIVIL PROCEDURE ENACTMENT 2004

SYARIAH COURT CIVIL PROCEDURE
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TECHNOLOGY) RULES 2022

Form KJJ2 [Subrule 7(2)]

IN THE SYARIAH APPEAL / HIGH / SUBORDINATE
COURT.....
AT.....

SUMMON / APPLICATION NO.: YEAR 20.....

BETWEEN

..... APPELLANT / PLAINTIFF / APPLICANT
(I/C:)

AND

..... DEFENDANT / RESPONDENT
(I/C:)

To : The Registrar
Syariah Court of.....

CONSENT / OBJECTION ON THE APPLICATION TO CONDUCT
PROCEEDING THROUGH REMOTE COMMUNICATION
TECHNOLOGY

1. I I/C No. am the
Appellant / Plaintiff / Applicant / Defendant / Respondent in this case.

2. I hereby express my consent / objection to this application for the following
reasons:

2.1
.....

2.2
.....

Dated:

.....
*Appellant / Plaintiff / Applicant / Defendant/
Respondent / Syariah Lawyer*

Sabah LawNet

SYARIAH COURT CIVIL PROCEDURE ENACTMENT 2004

SYARIAH COURT CIVIL PROCEDURE
(THE CONDUCT OF SYARIAH COURT THROUGH REMOTE COMMUNICATION
TECHNOLOGY) RULES 2022

FORM KJJ3 [Subrule 7(3)]

IN THE SYARIAH APPEAL / HIGH / SUBORDINATE
COURT.....
AT.....

SUMMON / APPLICATION NO.: YEAR 20.....

BETWEEN

..... APPELLANT / PLAINTIFF / APPLICANT
(I/C:)

AND

..... DEFENDANT / RESPONDENT
(I/C:)

To:

Appellant / Plaintiff / Applicant /
Defendant / Respondent

NOTICE TO ALL PARTIES

TAKE NOTICE that upon considering on the Application made by the Appellant / Plaintiff / Applicant / Defendant / Respondent onto Conduct Proceeding Through Remote Communication Technology and reply from the Appellant / Plaintiff / Applicant / Defendant / Respondent on, the Court hereby allow / disallow the application.

THIS NOTICE ISSUED under the Signature and Seal of the Court on
.....

(Seal)

Dated:

.....
Judge / Registrar
Syariah Appeal Court / Syariah High
CourtSyariah Subordinate Court

Made on 6th April 2022.

Y.A.A. ALIDIN @ AHMAD DIN BIN OKK OTHMAN
The State Chief Syar'ie Judge as the
Chairman of The Syariah Court Rules Committee