

No. 36. THE EVCAF AND VAKFS LAWS, 1955 AND 1957.
(Section 62).

RULES OF COURT.

HUGH FOOT,
Governor.

52 of 1955
18 of 1957.

In exercise of the powers vested in me by section 62 of the Evcaf and Vakfs Laws, 1955 and 1957, I, the Governor, with the advice and assistance of the Chief Justice, do hereby make the following Rules :—

PRELIMINARY.

1. These rules may be cited as the Evcaf and Vakfs (Assessment Appeals and Execution) Rules, 1959.

2.—(1) In these rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

“assessment list” means a list of the inhabitants of a town or village assessed under sub-section (2) of section 59 of the Laws and of the amounts assessed upon them ;

“certificate” means a certificate signed by the Director under sub-section 10 of section 59 of the Laws ;

“committee” means a Village Mosque Committee established under section 46 of the Laws ;

“Director” means the Director of Evcaf appointed under the provisions of the Laws ;

“inhabitant” has the meaning assigned to it by sub-section (3) of section 59 of the Laws ;

“Judge” means a Judge of a Turkish Family Court ;

“office copy” means a copy of a document filed with the registrar, which bears the seal of a Turkish Family Court and is certified by the registrar to be a true copy ;

“the Laws” means the Evcaf and Vakfs Laws, 1955 and 1957 ;

“party” includes a committee named in a notice of appeal as the committee of whose area the appellant should be deemed to be an inhabitant ;

“registrar” means the registrar of the Turkish Family Court to a Judge of which appeal is made under sub-section (4) or sub-section (7) of section 59 of the Laws or under both sub-sections ;

“Turkish Family Court” means a Turkish Family Court to a Judge of which such appeal is made ;

“village” includes a quarter of any town or village.

(2) A Form referred to by number means the Form so numbered in the First Schedule to these Rules.

(3) The Interpretation Law shall apply to the interpretation of these Rules as it applies to the interpretation of a Law.

Cap. 1.
30 of 1953
19 of 1954
30 of 1954
42 of 1955
19 of 1956.

PART I.

APPEALS AGAINST ASSESSMENT.

3.—(1) An appeal under sub-section (7) of section 59 of the Laws may be instituted by notice of appeal signed by the appellant or by an advocate on his behalf and filed together with two copies thereof with the registrar.

(2) The notice of appeal shall be substantially in accordance with Form 1.

4. Every registrar shall keep a book in which particulars of all notices of appeal filed shall be entered, and every such notice shall be given a serial number.

5.—(1) A notice of appeal shall be served upon a committee by delivering to and leaving with the chairman or any two members thereof an office copy of the notice.

(2) Such service shall be effected through the Turkish Family Court upon payment of the fee specified in Part II of the Second Schedule to these Rules and may be proved by affidavit.

6. The registrar shall give to each party to an appeal at his address for service a written notice informing him of the place and date of the hearing, which shall not be earlier than fourteen days after the date on which the notice is given.

7.—(1) Upon the hearing of an appeal the appellant shall begin.

(2) Subject to the provisions of these Rules, the procedure at the hearing of an appeal shall be such as the Judge may direct.

8. An appeal shall be heard at the principal town of the District where the village by the committee of which the appellant was assessed is situated.

9. The following provisions shall apply to an appeal under sub-section (4) of section 59 of the Laws—

(a) the appeal shall be made to a Judge of the District where the village named in the notice of appeal as the village of which the appellant should be deemed an inhabitant is situated ;

(b) the notice of appeal shall be—

(i) substantially in accordance with Form 1 ;

(ii) filed (with two copies thereof in respect of each committee to be served therewith) within ten days of the posting under sub-section (6) of the said section of the assessment list containing the assessment against which the appeal is made ; and

(iii) served in the manner provided by Rule 5 of these Rules upon both or all the committees by which the appellant was assessed, including the committee of the village named in the notice of appeal as the village of which the appellant should be deemed to be an inhabitant ;

(c) the last-mentioned committee shall not be included in the title of the appeal as respondents, but shall nevertheless be entitled to appear at and take part in the hearing thereof and in every other respect, including any order which may be made as to the costs of the appeal, shall be deemed to be a party thereto ;

(d) the appeal shall be heard at the principal town of the District where the villages by the committees of which the appellant was assessed are situated ; and if such villages are situated in two or more different Districts, then at the principal town of such District as the Judge may determine ;

(e) upon the hearing of the appeal the several committees shall be heard in such order after the appellant as the Judge may determine ;

(f) subject to the provisions of this Rule, these Rules shall apply to such appeal as they apply to an appeal under sub-section (7) of section 59 of the Laws.

10. An appeal under sub-section (4) of section 59 of the Laws and an appeal under sub-section (7) of that section may be made by one and the same notice of appeal, and for the purposes of these Rules such notice of appeal shall be deemed to be a notice of appeal under the former sub-section.

11. The costs of any proceedings under this Part of these Rules shall be in the discretion of the Judge, who may in particular order an unsuccessful committee to pay a successful committee's costs.

12.—(1) The fees specified in Part I of the Second Schedule to these Rules shall be payable to the registrar, in respect of the matters mentioned therein, by means of adhesive stamps affixed on the notice of appeal or other document mentioned therein.

(2) The costs specified in Part II of the Second Schedule to these Rules may be allowed both between party and party and between advocate and client in respect of the matters mentioned therein, unless the Judge for special reasons considers such amount to be inadequate.

(3) In both Parts of the said Schedule the expression "amount in dispute", if the appeal is against assessments made by more than one committee, means the amount in dispute between the appellant and one of the committees; and where different amounts are in dispute with different committees, then the larger or largest of such amounts.

13. Non-compliance with any of these Rules, or with any rule of practice for the time being in force, shall not render any proceedings void unless the Judge shall so direct, but such proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and on such terms as the Judge shall think fit.

PART II. EXECUTION.

14. A certificate by the Director under sub-section (10) of section 59 of the Laws may relate to one or more than one amount, provided in the latter case that all such amounts are included in the same assessment list.

15. The certificate shall—

- (a) describe the defaulter or defaulters with sufficient particularity to enable him or them to be identified;
- (b) state the amount or amounts actually due by him or them, as the case may be, and the date or dates on which payment fell due;
- (c) be substantially in accordance with Form 2.

16. Every registrar of a District Court shall keep a book in which particulars of all such certificates filed with him shall be entered, and each such certificate shall be given a serial number.

17. A certificate relating to more than one defaulter shall be deemed to be one judgment ordering the defaulters to pay the amounts due by them respectively as several debts, and execution may be issued accordingly.

18. The Rules, practice and procedure relating to execution, and the costs of execution, for debt under the Civil Procedure Rules and the Court Fees Order as amended by the Court Fees Rules of Court, 1954, shall apply with the following modifications to execution for the recovery of an amount or amounts stated in a certificate to be due—

- (a) in so far as the method of execution proposed is the seizure and sale of movable property, it shall not be necessary to make a request to the registrar for the issue of a writ for that purpose or to verify the amount or amounts due by affidavit;
- (b) the filing of a certificate shall, as regards all defaulters in respect of whom an application for any other method of execution is not made, be taken to imply that the proposed method of execution is the seizure and sale of movable property;
- (c) if one writ of execution is issued against more than one defaulter jointly, the costs of execution shall be borne by such one or more of the defaulters, and in the latter case in such proportion as a member of a District Court may determine.