

# The Family Courts Ordinance, 1985

( Ordinance NO. XVIII OF 1985 )

## An Ordinance to provide for the establishment of Family Courts.

WHEREAS it is expedient to provide for the establishment of Family Courts and for matters connected therewith;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

### Short title, extent and commencement

1. (1) This Ordinance may be called the Family Courts Ordinance, 1985.

(2) It extends to the whole of Bangladesh except the districts of Rangamati Hill Tract, Bandarban Hill Tract and Khagrachari Hill Tract.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

\*The Ordinance has come into force on 15th day of June, 1985 by S.R.O No. 239-L/85, dated: 29th May, 1985.

### Definitions

2. (1) In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) "Code" means the Code of Civil Procedure, 1908 (V of 1908);

(b) "Family Court" means a Family Court established under this Ordinance;

(c) "prescribed" means prescribed by rules made under this Ordinance.

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 (2) Words and expressions used in this Ordinance, but not defined, shall have the meanings respectively assigned to them in the Code.

**Ordinance  
to override  
other laws**

3. The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

**Establishment  
of Family  
Courts**

4. (1) There shall be as many Family Courts as there are Courts of <sup>1</sup>[Assistant Judges].

(2) All Courts of <sup>2</sup>[Assistant Judges] shall be Family Courts for the purposes of this Ordinance.

(3) All <sup>3</sup>[Assistant Judges] shall be the Judges of Family Courts.

**Jurisdiction  
of Family  
Courts**

5. Subject to the provisions of the Muslim Family Laws Ordinance, 1961 (VIII of 1961), a Family Court shall have exclusive jurisdiction to entertain, try and dispose of any suit relating to, or arising out of, all or any of the following matters, namely:-

- (a) dissolution of marriage;
- (b) restitution of conjugal rights;
- (c) dower;
- (d) maintenance;
- (e) guardianship and custody of children.

**Institution  
of suit**

6. (1) Every suit under this Ordinance shall be instituted by the presentation of a plaint to the Family Court within the local limits of whose jurisdiction-

- (a) the cause of action has wholly or partly arisen; or
- (b) the parties reside or last resided together:

Provided that in suits for dissolution of marriage, dower or maintenance, the Court within the local limits of whose jurisdiction the wife ordinarily resides shall also have jurisdiction.

(2) Where a plaint is presented to a Court not having jurisdiction,-

(a) the plaint shall be returned to be presented to the Court to which it should have been presented;

(b) the Court returning the plaint shall endorse thereon the date of its presentation to it and its return, the name of the party presenting it and a brief statement of the reasons therefore.

(3) The plaint shall contain all material facts relating to the dispute and shall contain a schedule giving the names and addresses of the witnesses intended to be produced in support of the plaint <sup>4</sup>[ \* \* \* ]:

Provided that the plaintiff may, with the permission of the Court, call any witness at any later stage, if the Court considers such evidence expedient in the interest of justice.

(4) The plaint shall also contain the following particulars, namely:-

(a) the name of the Court in which the suit is brought;

(b) the name, description and place of residence of the plaintiff;

(c) the name, description and place of residence of the defendant;

(d) where the plaintiff or the defendant is a minor or a person of unsound mind, a statement to that effect;

(e) the facts constituting the cause of action and the place where, and the date when, it arose;

(f) the facts showing that the Court has jurisdiction;

(g) the relief which the plaintiff claims.

(5) Where a plaintiff relies upon a document in his possession or power as evidence in support of his claim, he shall produce it in the Court when the plaint is presented and shall at the same time deliver the document or a true or photostat copy thereof to be filed with the plaint <sup>5</sup>[and shall also enter such documents in a list to be added or annexed to the plaint].

(6) Where the plaintiff relies upon a document not in his possession or power as evidence in support of his claim, he shall enter such document in

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 a list to be added or annexed to the plaint and state in whose possession or power it is.

<sup>6</sup>[(7) The plaint shall be accompanied by twice as many true copies thereof, including the schedule, and the lists of documents referred to in sub-sections (5) and (6) as there are defendants in the suit for service upon such defendants.]

<sup>7</sup>[(8) The plaint shall be rejected on the following grounds:-

(a) where it is not accompanied by true copies of plaint including the schedule and the lists of documents required under sub-section (7);

(b) where the cost of service of summons and postal charges for notice required to be paid under section 7(5) are not paid;

(c) where the fees required to be paid at the time of presentation of the plaint under section 22 are not paid.

(9) A document which ought to be produced in Court by the plaintiff where the plaint is presented, or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit:

Provided that the Court shall not grant such leave save in exceptional circumstances.]

### **Issue of summons and notice**

7. (1) When a plaint is presented to a Family Court, it shall-

(a) fix a date ordinarily of not more than thirty days for the appearance of the defendant;

(b) issue summons to the defendant to appear and answer the claim on the date specified therein;

(c) send to the defendant, by registered post with acknowledgement due, a notice of the suit.

(2) Every summons issued and notice sent under sub-section (1) shall be accompanied by a copy of the plaint <sup>8</sup>[and copies of the list of documents

(3) A summons issued under sub-section (1)(b) shall be served in the manner provided in rules 9, 10, 11, 16, 17, 18, 19, 19A, <sup>9</sup>[20], 21, 23, 24, 26, 27, 28 and 29 of Order V of the Code; and a summons so served shall be deemed to be due service thereof on the defendant.

(4) A notice sent under sub-section (1)(c) shall be deemed to be duly served on the defendant when the acknowledgement purporting to be signed by the defendant is received by the Court or the postal article containing the notice is received back by the Court with an endorsement purporting to have been made by a postal employee to the effect that the defendant had refused to take delivery of the postal article containing the notice when tendered to him:

Provided that where the notice was properly addressed, prepaid and duly sent by registered post with acknowledgement due, it may be deemed to be duly served on the defendant after the expiry of thirty days from the date of posting of the notice notwithstanding the fact that the acknowledgement having been lost or mislead or for any other reason has not been received by the Court within that period.

(5) The cost of service of summons issued under sub-section (1)(b), which shall be equal to the cost of service of similar summons under the Code, and the postal charges for notice sent under sub-section (1)(c) shall be paid by the plaintiff at the time of presentation of the plaint.

#### **Written statement**

8. (1) On the date fixed for the appearance of the defendant, the plaintiff and the defendant shall appear before the Family Court and the defendant shall present a written statement of his defence <sup>10</sup>[:

Provided that the Court may, on the prayer of the defendant and for good cause shown, fix another date not beyond twenty-one days for the presentation of the written statement of his defence.]

(2) The written statement shall contain a schedule giving the names and addresses of the witnesses intended to be produced in support of the defence <sup>11</sup>[\* \* \* ]: