

**RELIGIOUS JUDICATURE ACT**  
**NO. 7 OF 1989**

**BY THE GRACE OF GOD THE ALMIGHTY**  
**THE PRESIDENT OF THE REPUBLIC OF INDONESIA,**

- Considering:
- a. whereas the Country of the Republic of Indonesia, as a legislated state which is based on the Philosophy of Pancasila and the Constitution of the 1945, aiming at realizing a life of a nation which is prosperous, secure, peaceful and order;
  - b. whereas in order to realize the aforementioned life order and to guarantee the equilibrium of each citizen before the law, measures to uphold justice, truth, order and the law enforcement which are able to protect the people of Indonesia are in need;
  - c. whereas one of the efforts to uphold the aforementioned justice, truth, order, and law enforcement is by means of Religious Judicature as it is stated in the Law number 14 of the year 1974 re the Basic Regulations of the Judicial Authorization;
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d. whereas the regulation on the structure, authority, and lawsuit procedure within the Religious Jurisprudence in which so far is still in vary due to the references of:

1. The regulation on the Religious Judicature in Jawa and Madura (Staatsblad of the year 1882 Number 152 related to the Staatsblad of the year 1937 Number 116 and 610):
2. The regulation on the Qadi's deliberation and Great Qadi's deliberation (religious leaders) for some parts of South and East Kalimantan Regencies (Staatsblad of the year 1937 Number 638 and 639);
3. Government Regulation Number 45 of the year 1957, re the Establishment of Religious Court/Syari' at Court outside Jawa and Madura. (State Declaration of the year 1957 Number 99),

That all needs to be ended anule for the sake of the establishment of the unity in law which regulates the Religious Judicature in the framework of the national system and law order based on the Pancasila and The Constitution of 1945;

e. whereas in relation with the above consideration, and to activate the Law number 14 of the year 1970 re the Basic Regulation of the Judicial Authorization it is deemed necessary to determine a law that regulates the structure, the authority and the Court Law Procedure within the Religious Judicature.

- Attending:
1. Article 5 point (1), Article 20 point (1), Article 24, and Article 25 of The Constitution of 1945;
  2. Law Number 14 of the year 1970 re Basic Regulation of the Judicial Authorization (State Declaration of the year 1970, Number 74, Additional State Declaration number 2951);
  3. Law Number 14 of the year 1985 re Supreme Court (State Declaration of the year 1985 Number 73, Additional State Declaration number 3316)

**With the Agreement of  
THE HOUSE OF REPRESENTATIVES OF  
THE PEOPLE OF INDONESIA**

**TO DECIDE:**

To pass:                   THE LAW OF THE RELIGIOUS JUDICATURE

**CHAPTER I  
GENERAL CONDITIONS**

**Part One  
The Definition**

**Article 1.**

The definition used in this law for some terminology are as follows::

1. The Peradilan Agama (Religious Judicature) is a judicature for those who embrace Islam religion.
2. The courts are The Religious Court and The High Religious Court within the Religious Judicature.
3. The Judges are the Judge in the Religious Court and the Judge in The High Religious Court.
4. Pegawai Pencatat Nikah (the Marriage Registrar Official) is the Marriage Registrar Official at the Office of Religious Affairs.
5. The Confiscation Officer and the Substitute Confiscation Officer is the Confiscation Officer and The Substitute Confiscation Officer at the Religious Court.

**Part Two  
The Status**

**Article 2.**

The Religious Judicature is one of the executives of the Judicial Authority for justice seekers who embrace Islam religion upon certain civil cases which are regulated in this Law.

**Article 3.**

- (1) The Judicial Authority within the Religious Judicature is held by:
  - a. Religious Court;
  - b. High Religious Court;
- (2) The culminating authority point of The Judicial Authority within the Religious Judicature goes to the Supreme Court as the highest state level of Court in Indonesia.

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**Part Three**  
**The Location**

**Article 4.**

(1) A Religious Court is located in a regency or the capital of a district, and its jurisdiction territory covers the regency or the district.

(2) A High Religious Court is located in the capital city of a province, and its jurisdiction territory covers an area of the province.

**Part Four**  
**The Maintenance**

**Article 5.**

(1) The development of technical judicature for the Religious Court is to be done by the Supreme Court.

(2) The development of the organization, administration and financial affairs are to be done by the Minister of Religious Affairs.

(3) The development and supervision as it is meant in point (1) and point (2) is not to reduce the freedom of the Judges in processing as well as finalizing cases.

**CHAPTER II**  
**THE ORGANIZATION OF THE COURT**

**Part One**  
**General**

**Article 6.**

The Court consists of:

(1) The Religious Court which serves as the First Level Court;

(2) The High Religious Court which serves as the Appeal Level Court.

**Article 7.**

A Religious Court is established based on a Presidential Decree.

**Article 8.**

The High Religious Court is established by Law.

**Article 9.**

(1) The structure of a Religious Court consists of; a Head, Member Judges, Clerk of the Court, Secretary, and the Confiscation Officer.

(2) The structure of a High Religious Court consists of; a Head, Member Judges, Clerk of the Court and Secretary.

**Article 10.**

(1) The head of the Religious Court consists of a Chairman and a Vice Chairman.

- (2) The head of the High Religious Court consists of a Chairman and a Vice Chairman.
- (3) Member Judge of the High Religious Court is Senior (first class) Judge.

**Part Two**  
**Chairman, Vice Chairman, Judge, Clerk of the Court**  
**and Confiscation Officer**  
**Paragraph 1**  
**Chairman, Vice Chairman, and Judge**

**Article 11.**

- (1) The Judge is an officer who performs the duty of judicial authority.
- (2) The requirements and the procedure of appointment, resignation as well as the execution of the Judge duties are regulated in this regulation/law.

**Article 12.**

- (1) General control and supervision to the Judge as civil servants is carried out by the Minister of Religious Affairs.
- (2) The control and supervision as it is meant in point (1) is not to lessen the freedom of the Judge in processing as well as finalizing cases.

**Article 13.**

- (1) To be appointed as Judge in a Religious Court one must meet the following criteria:
  - a. a citizen of Indonesia;
  - b. Muslim;
  - c. devoted to God the Almighty;
  - d. Loyal to Pancasila the State Ideology and the Constitution of 1945;
  - e. free from involvement of the banned organization of Indonesian Communist Party, any mass organization under it, and must not be the one involved directly or indirectly in the "contra revolution movement of 30 September/PKI", or other banned organizations;
  - f. government official;
  - g. a graduate of syari'ah or law faculty majoring Islamic Law;
  - h. minimum age is 25 (twenty five) years old;
  - i. dignity, honest, impartial, and flawless conduct.
- (2) To be appointed as the Head or Vice Head of a Religious Court a minimum 10 years experience as a Judge in Religious Court is required.

**Article 14.**

- (1) To be appointed as a Judge in a High Religious Court, one must meet the following criteria:
  - a. requirements as stated in article 13 point (1) letters a, b, c, d, e, f, g, and i;
  - b. minimum age requirement is 40 (forty) years old.
  - c. a minimum of 5 (five) years experience as a Head or Vice Head of a Religious Court or 15 (fifteen) years as a Judge in a Religious Court.
- (2) To be appointed as the Head of a High Religious Court, a minimum of 10 (ten) years experience as a Judge in a High Religious Court, or a minimum of 5 (five) years experience

as a Judge in a High Religious Court and experienced as a Head of a Religious Court is needed.

(3) To be appointed as a Vice Head of a High Religious Court, a minimum of 8 (eight) years experience as a judge in a High Religious Court is needed, or a minimum of 3 (three) years is needed for a judge in a High Religious Court who experiences as a Head of a Religious Court.

#### **Article 15.**

(1) A Judge is appointed and resigned by the President as a Head of State proposed by the Minister of Religious Affairs based on the approval of the Head of the Supreme Court.

(2) The Head and the Vice Head of a Religious Court is appointed and resigned by the Minister of Religious Affairs based on the approval of the Head of the Supreme Court.

#### **Article 16.**

(1) Prior to holding the positions, the Head, The Vice Head and the Judge are obliged to take an oath in Islamic version with wording as follows:

“By the name of Allah, I swear that I, to take this position, directly or indirectly, using any names or whatever means, will not give or promise anything to anyone.”

“I swear, that I, to do or not to do something in this position, will never accept directly or indirectly from anyone a gift or any promise.”

“I swear, that I will be loyal and defend as well as apply the Pancasila as a state foundation and ideology, the Constitution of 1945, and any law or other regulations valid in the country of Indonesia.

“I swear, that I will always carry out my duty honestly, thorough, and impartial and will behave and do my best as should be conducted by a Head, a Vice Head, and a Judge of a Court who are honest and ethical in upholding law and justice.”

(2) The oath of the Vice Head and the Judges of Religious Court is taken by the Head of the Religious Court.

(3) The oath of the Vice Head and the Judges of a High Religious Court and the Head of a Religious Court are taken by the Head of a High Religious Court.

(4) The oath of the Head of a High Religious Court is taken by the head of the Supreme Court.

#### **Article 17.**

(1) Except determined otherwise, or based on the law, a Judge may not double his position as:

- a. an executor of a Court sentence;
- b. wali, representative, or any position related to the case he/she is working on.
- c. a businessman/businesswoman.

(2) A Judge cannot at the same time be a lawyer.

(3) Positions that cannot be doubled by a Judge other than mentioned in point (1) and point (2) will further be regulated by the government bill.

#### **Article 18.**

(1) The Head, The Vice Head and the Judges are dismissed honorably from his/her position due to the following reasons:

- a. his/her own initiative to resign;
- b. chronic physical or non-physical illness;
- c. reaching the age of 60 (sixty) for the Head, the Vice Head, and The Judges, in Lower Religious Court, and 63 (sixty three) for the Head, the Vice Head and the Judges in a High Religious Court;
- d. being incapable in performing the duty.

(2) The Head and the Vice Head and the Judges who die will automatically be dismissed from his/her position by the President as The Head of State.

#### **Article 19.**

(1) The Head, the Vice Head and the Judges are dismissed not-honorably from his/her position due to the following reasons:

- a. imprisoned due to found guilty of committed crime;
- b. doing disgraceful things;
- c. continuously neglecting his/her duty;
- d. violating the oath;
- e. violating the regulations stated in article 17.

(2) Appeal of dismissal not-honorably with reasons as stated in point (1) letters 'b' to 'e' is to be forwarded after the person concerned was given an ample opportunity to defend him/herself before the Honorable Judge Council.

(3) The establishment, structure, and the working procedure of the Honorable Judge Council as well as the procedure of self-defending is to be determined by the Head of the Supreme Court in cooperation with the Minister of Religious Affairs.

#### **Article 20.**

A Judge who is dismissed from his/her position, will not automatically be dismissed from his status as a civil servant.

#### **Article 21.**

(1) Prior to the dismissal with honor as stated in article 19 point (1), the Head, the Vice Head, and the Judges may be temporarily freed from the position by the President as the Head of State upon the proposal of the Minister of Religious Affairs based on the approval of the Head of the Supreme Court.

(2) To the proposal of the temporary dismissal as stated in point (1) above, the regulation of that stated in article 19 point (2) is also implied.

#### **Article 22.**

(1) Should there be a warrant arrest to a Judge and followed by detainment to the Judge concern, the Judge will automatically be dismissed temporarily from his position.

(2) If a Judge is put on trial in a court for the involvement in a crime as stated in article 21 point (4) of Law number 8 of the year 1981 re Criminal Code in which he is not detained, he can be dismissed temporarily from his position.

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**Article 23.**

Further regulation on the procedure of dismissal with honor, dismissal not with honor, and the temporary dismissal with the rights of the dismissed official, will be regulated by the Government Regulation.

**Article 24.**

(1) The protocol status of a Judge is regulated by a Presidential Decree.  
(2) Allowances and other rights for a Head, the Vice Head, and the Judge is regulated by a Presidential Decree.

**Article 25.**

The Head, the Vice Head, and the Judge can only be arrested with arrest warrant issued by the Supreme Attorney with the approval of the Head of the Supreme Court and the Minister of Religious Affairs except in the following cases:

- a. caught red-handed while doing a crime, or
- b. allegedly committed a crime which is threatened with capital punishment, or
- c. allegedly committed a crime which endangers the safety of the country.

**Paragraph 2**  
**The Clerk of the Court**

**Article 26.**

(1) In each Court there must be a Clerical position chaired by a Clerk of the Court.  
(2) In carrying out the duty, a Clerk of a Religious Court is assisted by a Vice Clerk Several Junior Clerks, several Substitute Clerks, and some Confiscation Officers.  
(3) In carrying out the duty, a Clerk of a High Religious Court is assisted by a Vice Clerk, Several Junior Clerks, and some Substitute Clerks.

**Article 27.**

To be appointed a Clerk in a Religious Court, a candidate must meet the following criteria:

- a. a citizen of Indonesia;
- b. a Muslim;
- c. devout to God the Almighty;
- d. loyal to Pancasila the State Ideology and the Constitution of 1945;
- e. a graduate of minimum Bachelor degree from the Syari'ah faculty or a Bachelor of a Law faculty mastering Islamic Law.
- f. a minimum of 4 (four) years experience as a Vice Clerk or 7 (seven) years as a Junior Clerk of a Religious Court, or had a position as a Vice Clerk of a High Religious Court.

**Article 28.**

To be appointed a Clerk in a High Religious Court one must meet the following criteria:

- a. meets the conditions as stated in article 27 letters a, b, c, and d;
- b. graduate of Syari'ah faculty or law faculty mastering Islamic Law;

- c. a minimum experience of 4 (four) years as a Vice Clerk or 8 (eight) years as a Junior Clerk of a High Religious Court, or 4 (four) years as a Clerk of a Religious Court.

**Article 29.**

To be appointed a Vice Clerk of Religious Court a candidate must meet the following criteria:

- a. Conditions as stated in article 27 letters a, b, c, d, and e;
- b. having a minimum of 4 (four) years experience as a Junior Clerk or 6 (six) years as a Substitute Clerk in a Religious Court.

**Article 30.**

To be appointed a Vice Clerk of a High Religious Court, a candidate must meet the following criteria:

- a. conditions as stated in article 27 letters a, b, c, and d;
- b. graduate of faculty of Syari'ah or Law mastering Islamic Law;
- c. a minimum of 4 (four) years experience as a Junior Clerk or 7 (seven) years as a Substitute Clerk of a High Religious Court, or 4 (four) years as Vice Clerk of a Religious Court, or as a Clerk of a Religious Court.

**Article 31.**

To be appointed a Junior Clerk in a Religious Court a candidate must meet the following criteria:

- a. conditions as stated in article 27 letters a, b, c, d, and e.
- b. a minimum of 3 (three) years experience as a Substitute Clerk of a Religious Court.

**Article 32.**

To be appointed a Junior Clerk of a High Religious Court, a candidate must meet the following criteria:

- a. conditions as stated in article 27, letters a, b, c, d, and e.
- b. a minimum of 3 (three) years experience as a Substitute Clerk of a High Religious Court, or 4 (four) years as a Junior Clerk or 8 (eight) years as a Substitute Clerk of a Religious Court, or as a Vice Clerk of a Religious Court.

**Article 33.**

To be appointed a Substitute Clerk of a Religious Court, a candidate must meet the following criteria:

- a. conditions as stated in article 27, letters a, b, c, d and e;
- b. a minimum of 5 (five) years experience as a civil servant in a Religious Court.

**Article 34.**

To be appointed as a Substitute Clerk of a High Religious Court, a candidate must meet the following criteria:

- a. conditions as stated in article 27, letters a, b, c, d and e;
- b. a minimum of 5 (five) years experience as a Substitute Clerk of a Religious Court or 10 (ten) years as a civil servant in a High Religious Court.

**Article 35.**

(1) Except determined otherwise, or based on law, a Clerk cannot double the position of being 'wali', guardian, or any position having relation with the case where he takes the position as the Clerk.

(2) A Clerk cannot be at the same time a Lawyer.

(3) Other position that cannot be taken by the Clerk other than the ones mentioned in point (1) and point (2) will further be regulated by the Minister of Religious Affairs with the approval of the head of the Supreme Court.

**Article 36.**

The Clerk, Vice Clerk, the Junior Clerk, Substitute Clerk of a Court are to be appointed and resigned by the Minister of Religious Affairs.

**Article 37.**

Prior to holding the position, the Clerk, the Vice Clerk, the Junior Clerk, and the Substitute Clerk will be taken an oath in Islamic version by the Head of the Court where they are stationed.

The oath will be as follows:

"By the name of Allah, I swear, that I, for this position will not directly or indirectly, by the name or any other way give or promise anything to anybody."

"I swear, that I, to do or not to do something in this position, will never accept directly or indirectly from anyone a gift or any promise."

"I swear, that I will be loyal and defend as well as apply the Pancasila as a state foundation and ideology, the Constitution of 1945, and any law or other regulations valid in the country of Indonesia.

"I swear, that I will always carry out my duty honestly, systematically, and impartial and will behave and do my best as should be conducted by a Clerk, a Vice Clerk, and a Junior Clerk, and a Substitute Clerk of a Court who are honest and ethical in upholding law and justice."

**Paragraph 3  
Confiscation Officer****Article 38.**

In any Religious Court there must be a position of Confiscation Officer and a Substitute Confiscation Officer.

**Article 39.**

(1) To be appointed a Confiscation Officer one must meet the following criteria:

- a. a citizen of Indonesia;
- b. Muslim;
- c. devout to God the Almighty;
- d. Loyal to the Pancasila and the Constitution of 1945;
- e. at least a graduate of Senior High School;
- f. a minimum of 5 (five) years experience as a Substitute Confiscate Officer.

(2) To be appointed a Substitute Confiscation Officer one must meet the following criteria: a. conditions as stated in point (1) letters a, b, c, d and e; b. a minimum of 5 (five) years experience as a civil servant in a Religious Court.

#### **Article 40.**

(1) A Confiscation Officer is appointed and resigned by the Minister of Religious Affairs based on the request of the Head of Religious Court.

(2) A Substitute Confiscation Officer is appointed and resigned by the Head of the Religious Court.

#### **Article 41.**

Prior to holding the position, the Clerk, the Vice Clerk, the Junior Clerk, and the Substitute Clerk will be taken an oath in Islamic version by the Head of the Court where they are stationed.

The oath will be as follows:

“By the name of Allah, I swear, that I, for this position will not directly or indirectly, by the name or any other way give or promise anything to anybody.”

“I swear, that I, to do or not to do something in this position, will never accept directly or indirectly from anyone a gift or any promise.”

“I swear, that I will be loyal and defend as well as apply the Pancasila as a state foundation and ideology, the Constitution of 1945, and any law or other regulations valid in the country of Indonesia.

“I swear, that I will always carry out my duty honestly, systematically, and impartial and will behave and do my best as should be conducted by a Confiscation Officer, and a Substitute Confiscation Officer of a Court who are honest and ethical in upholding law and justice.”

#### **Article 42.**

(1) Except determined otherwise, or based on the law a Confiscation Officer cannot double his position as ‘wali’, guardian, or any position related to the case where he himself has a vested interest.

(2) A Confiscation officer cannot at the same time be a Lawyer.

(3) Other positions that cannot be taken by the Confiscation Officer other than those mentioned in point (1) and point (2) will further be regulated by the Minister of Religious Affairs with the approval of the Head of the Supreme Court.

### **Part 3**

#### **The Secretary**

#### **Article 43.**

In each Court there must be a secretariate which is chaired by a Secretary and assisted by a Vice Secretary.

#### **Article 44.**

The Clerk of the Court also functions as the Secretary of the Court.

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**Article 45.**

To be appointed a Vice Secretary of Religious Court, a candidate must meet the following criteria:

- a. a citizen of Indonesia;
- b. moslem;
- c. devout to God the Almighty;
- d. loyal to Pancasila and the Constitution of 1945;
- e. graduate of at least a bachelor of Syari'ah, or law faculty mastering Islamic law or bachelor in Administration.
- f. experience in court administration.

**Article 46.**

To be appointed a Vice Secretary of a High Religious Court, a candidate must meet the following criteria:

- a. conditions as stated in article 45 letters a, b, c, d, and f;
- b. graduate of Syari'ah or Law faculty and mastering Islamic law.

**Article 47.**

The Vice Secretary of a Court is appointed and resigned by the Minister of Religious Affairs.

**Article 48.**

Prior to holding his position, Vice Secretary is taken an oath in Islamic version by the Head of the Religious Court where he is stationed.

The oath will be as follows:

"By the name of Allah, I swear: that I, to be in the position of Vice Secretary will be loyal and thoroughly obedient to Pancasila and the Constitution of 1945, the Country and the Government; that I, will follow all regulations valid in this country and perform the duty that I am assigned dedicatively, conscientiously and full of responsibility; that I, will always respect the dignity of the country, the Government and the integrity of a Vice Secretary and will always prioritize the government interest over my own, individual or group; that I, will keep a secret of something which by nature or under command is to be kept in secret; that I will work honestly, orderly, meticulously, and enthusiastically for the interest of the country."

**CHAPTER III  
THE AUTHORITY OF THE COURT**

**Article 49.**

(1) The Religious Court has the responsibility and is authorized to process, sentence, and settle cases on the first level between the Muslim people in the subjects of:

- a. marriage;
- b. inheritance, will, and 'hibah' (present), that are done based on the Islamic stipulation;
- c. 'waqaf' and 'shadaqah';

(2) In the subject of a marriage as mentioned in point (1) letter a is the matters that are regulated in or based on the existing and valid marriage law.

(3) In the subject of inheritance as mentioned in point (1) letter b is in determining who are the heirs, determining the left property, determining the portion of each heir, and to execute the division of the left property concerned.

**Article 50.**

In the case there is a dispute concerning the property right or other civil cases in the cases as mentioned in article 49, the subject of the dispute must be first processed and sentenced by a court of a Public Judicature.

**Article 51.**

(1) The High Religious Court performs and authorized to preside over the case which is under the authority of the Religious Court in the level of appeal.

(2) The High Religious Court also performs and authorized to preside over the case in the first as well as final level which is in dispute among the Religious Court within its Judicial territory.

**Article 52.**

(1) The court may give an explanation, recommendation and advice about Islamic law to any government institution within its judicial territory if required.

(2) Beside the task and authority as stated in article 49 and article 51, the Court may be given a task and authority by or based on the law.

**Article 53.**

(1) The Head of the Court performs supervision and monitoring on the job and the behavior of the Judge, the Clerk, the Secretary, and the Confiscation Officer within his Judicial territory.

(2) Besides the task as stated in point (1), the Head of the High Religious Court within his Judicial territory performs the supervision on the practice of trial in the level of the Religious Court and keeps the court sessions conducted thoroughly and properly.

(3) In carrying out the supervision as stated in point (1) and point (2), the Head of the Court may give guidance, reprimand, and warning if it is deemed necessary.

(4) The supervision as stated in point (1), point (2) and point (3), may not by any means reduce the authority of the Judge in processing and presiding over a case.

**CHAPTER IV  
CODE OF LAW**

**Part One  
General**

**Article 54.**

The code of law which is valid in the Court within the Islamic Judicature is the Civil Code of Law which is valid in the court within the Public Court, except those which are specifically regulated in this law.

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**Article 55.**

The trial of a case begins after a request or a suit from the disputed parties accepted and the parties are called through a proper procedure of summon.

**Article 56.**

(1) The Court cannot refuse to preside over a case with an excuse that the case has no clear ground of law. The court is obliged to put it into a trial and preside it properly.

**Article 57.**

- (1) Justice is done BY THE JUSTICE BASED ON GOD THE ONE AND ONLY.
- (2) Every decision and sentence begins with the recitation of a sentence of BISMILLAHIRRAHMANIRRAHIM followed by BY THE JUSTICE BASED ON GOD THE ONE AND ONLY.
- (3) Court session is to be carried out in simple way, fast, and at low cost.

**Article 58.**

- (1) The Court puts a lawsuit according to legal manner without discriminating people.
- (2) The Court helps the justice seekers and make the best efforts in overcoming constraints to realize a trial which is simple, fast and low cost.

**Article 59.**

- (1) Court session is open for public, except that the law decide otherwise or the Judge with some important reasons which are noted down in the official report decides that the court should be totally or partly be done in a closed session.
- (2) Not complying with the regulation as stated in point (1) can cause the whole trial with its sentence void according to law.
- (3) Judge deliberation meeting is by nature a secret.

**Article 60.**

The decision and sentence of a Court is valid and has a firmness in law only if it is declared in an open session.

**Article 61.**

Upon the decision and sentence of the Religious Court the disputing parties may appeal to the higher courts except the law decide otherwise.

**Article 62.**

- (1) Every decision and sentence of a Court, beside quoting the reasons and the basis must also quote certain articles from the related regulations or other unwritten legal sources which is used as a basis of the trial.
- (2) Every decision and sentence of a Court is to be signed by the Head and the Judges who imposed the sentence and the Clerk who joined the session in which the decision and the sentence is imposed.
- (3) The Official report of the Court's session is signed by the Head and the Clerk who joined the session.

**Article 63.**

Upon the decision and sentence of the High Religious Court an appeal can be pursued to the Supreme Court by the disputing parties.

**Article 64.**

The decision and sentence of the Court which is appealed to the higher level of Courts enables the court to postpone the execution of the sentence for the sake of justice, except that if in the sentence it is stated that the decision or the sentence can be executed right away even if there is a counter effort, or appeal to higher level courts.

**Part Two**  
**The Trial of a Dispute in Marriage**  
**Paragraph 1**  
**General**

**Article 65.**

Divorce can only be done before a Court session after the Court conducts some efforts and cannot resolve both parties.

**Paragraph 2**  
**The Divorce**

**Article 66.**

(1) A Muslim husband who intends to divorce his wife proposes the request to the Court to open a session to witness the 'iqrar talaq'.

(2) The request as stated in point (1) is proposed to the Court which the Judicial territory covers the domicile of the wife except if the wife intentionally left the place where they used to live together without the permit of the husband.

(3) In the case that the domicile of the wife is in a foreign country, the request is to be forwarded to the Court that its Judicial territory covers the place of the husband.

(4) In the case that the couple live in a foreign country, the proposal is to be forwarded to the Court that its judicial territory covers the area where their marriage was conducted or to the Religious Court of Central Jakarta.

(5) Request on taking the charge over children, children funding, the wife allowances, and the joint property may be proposed at the same time as the divorce proposal or after the 'iqrar talaq' is pronounced.

**Article 67.**

The request as stated in article 66 includes:

- a. the name, age, the domicile of the men (husband) and the woman (the wife);
- b. reasons that based the talaq divorce.

**Article 68.**

(1) An examination on the talaq divorce proposal is to be done by the Council of Judges within 30 (thirty) days at the latest after the document of the proposal is registered to the Clerk.

(2) The examination of the talaq divorce proposal is done in a close session.

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**Article 69.**

In the trial of the talaq divorce the regulations of article 79, article 80 point (2), article 82, and article 83 are to be applied.

**Article 70.**

(1) When the Court comes to the conclusion that the couple can by no means be reconciled and there are ample evidences to divorce the Court will decide that the request is accepted.

(2) Upon the decision as stated in point (1) the wife may propose an appeal.

(3) After the sentence/decision obtains the law firmness, the Court will decide the day of the talaq divorce witnessing, by inviting the husband and wife or their representatives to attend the session.

(4) In the trial the husband or his representative who is given the mandate in an authentic note to utter the iqrar talaq will declare the iqrar talaq witnessed by the wife or her representative.

(5) In case that the wife, who has been legally and properly invited, does not come nor send the representative, the husband or his representative may read the iqrar talaq without being attended by the wife or her representative.

(6) If the husband, within the tolerated period of 6 (six) months since the determination of the day of witnessing of the iqrar talaq, does not come by himself or send his representative even though there is a valid or proper summon the determination of the witnessing day is void and the request talaq proposal cannot be retried based on the same reason.

**Article 71.**

(1) The Clerk of the Court will take notes on everything happens during the session of the talaq divorce.

(2) The Judge issue a sentence containing that the marriage is broken off from the time the iqrar talaq is pronounced and for this decision/sentence there will be no appeal.

**Article 72.**

For the decision/sentence as stated in article 71 the regulations in article 84 point (1), point (2), point (3), and point (4), and article 85 are to be applied.

**Paragraph 3  
Claimed Divorce**

**Article 73.**

(1) Claim of a divorce is proposed by the wife or her mandatory to the Court which the Judicial territory covers the area of the domicile of the wife, provided that the husband left the area place of their living together without the permission of the wife.

(2) In the case that the wife lives in a foreign country, the claim of divorce is proposed to the Court which its judicial territory covers the area of the husband's domicile.

(3) In the case that the husband and the wife both live in a foreign country, the claim is to be proposed to the Court that its judicial territory covers the area where the marriage was conducted or to the Religious Court of Central Jakarta.

**Article 74.**

If the claim of divorced is based on the fact that either party is sentenced to jail, to get the divorce decision/sentence, as an evidence the wife may just submit the copy of the sentence of the Court that tried the husband together with covering letter which stated that the sentence has obtained the fixed law firmness.

**Article 75.**

If the claim of divorce is based on the reason that the husband is physically invalid or other invalidity that cause him not able to perform his task as a husband, the Judge can order the husband to check himself to a doctor.

**Article 76.**

(1) If the claim of divorce is based on the reason of 'syiqaq', to get a decision/sentence there must be a hearing session of the witnesses who come from the family or people who close to the husband and the wife.

(2) The court after hearing the explanation of the witnesses on the character of the dispute may appoint one or more persons from both families or outsiders to become the 'hakam' (Jury).

**Article 77.**

Within the period in which the claim divorce is occurring, based on the request of the wife or the husband or in consideration of the danger that might happen, the Court may allow that the husband and the wife do not live together at the same house.

**Article 78.**

Within the period in which the claim divorce is occurring, based on the request of the wife, the Court may:

- a. decide the allowance to be paid by the husband;
- b. decide the necessities needed for taking care of the children and their education;
- c. decide the necessities needed for taking care of their joint property or the property of the husband or the property of the wife.

**Article 79.**

The claim of divorce voids if the husband or the wife die before the sentence of the court.

**Article 80.**

(1) The examination of the claim of divorce is done by the Council of Judges within 30 (thirty) days at the latest after the document of claim is registered at the Clerk Office.

(2) The session of the claim of divorce is done in a closed session.

**Article 81.**

(1) The Court Sentence over the claim of divorce is to be read in a court session which is open for public.

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(2) A divorce occurs with all legal effects commented from the day it obtained a fix legal firmness.

#### **Article 82.**

(1) On the first day of the session of the claim of divorce the Judge will try to resolve both parties.

(2) In the mentioned resolving session, both the husband and the wife must come by themselves except when either party lives in a foreign country and cannot come in person, he may appoint somebody who is specially assigned to represent him on this matter.

(3) If both parties live in a foreign country, the wife must come in person during the resolving day.

(4) Before the sentence is pronounced, the act of resolving can be carried out in every session of the courts.

#### **Article 83.**

Should there be a settlement of the problem, there can never be a new claim based on the existing reason which have been known by the husband before the settlement happened.

#### **Article 84.**

(1) The Clerk of the Court or other appointed official of the Court is obliged within at least 30 (thirty) days to send one copy of the duplicate of the Court sentence that has obtained a fix legal firmness, without a duty stamp to the Pegawai Pencatat Nikah (Marriage Registrar Official) whose Judicial territory covers the domicile of the mentioned couple, in order to register the divorce in a list that specially prepared for the purpose.

(2) If the divorce is done in a region different from the one of the Marriage Registrar Official where the marriage was conducted one copy duplicate of sentence as mentioned in point (1) which has obtained a fixed legal firmness without duty stamp is sent to the Marriage Registrar Official of the place where the marriage was conducted by whom it is then written a note on the sideline of the marriage note.

(3) If the marriage was conducted in a foreign country one copy of the duplicate as mentioned in point (1) is sent to the Marriage Registrar Official where the marriage was registered in Indonesia.

(4) The Clerk is obliged to issue a divorce act as a proof evidence of divorce to both parties within at least 7 days commencing from the day the sentence that has obtained a fixed legal firmness notified to the concerning parties.

#### **Article 85.**

Dereliction in sending the copy of the sentence as stated in article 84, will be the responsible of the Clerk of the appointed Court official, if such a negligence causing lost to the ex-husband or wife or both.

#### **Article 86.**

(1) Claims on the control over children, allowance for the children, allowance for the wife, and the joint property of the husband and wife may be proposed together with the claim of divorce or after the sentence of divorce obtained the fixed legal firmness.

(2) Should there be a claim of a third party, the Court may postpone about the joint property issue until there is a sentence of a Court within the Jurisdiction of the Public Court concerning the matter.

**Paragraph 4**  
**Divorce Due To Reason of Adultery**

**Article 87.**

(1) If a request or a claim of divorce is proposed due to either of the party committed adultery, while the one who claims fails to provide evidence and the one who is claimed refuse the accusation and the Judge believes that the claim is not at all un-founded and the proved evidence is impossible to obtain either from the one who claims or the one who is claimed, the Judge based on his authority may request the one who claims to pronounce an oath.

(2) The one who is claimed is also to be given a chance to firm the refusal on the same way.

**Article 88.**

(1) If the oath as stated in article 87 point (1) is done by the husband, the administration can be done by way of "li'an".

(2) If the oath as stated in article 87 point (1) is done by the wife, the administration can be done by the existing code of law.

**Part Three**  
**The Cost of the Court Session**

**Article 89.**

(1) The cost of the court session is liable to the one who proposes the claim.

(2) The cost of the decision or the Court sentence which are not final decision will be taken into account at the final decision.

**Article 90.**

(1) The cost of the court session as stated in article 89 includes:

- a. the secretarial cost and the duty stamps needed for the case;
- b. the cost for the witnesses, an expert team, translator, and the oath taking needed for the case;
- c. the cost that needed to do the spot investigation and other activities needed for the case;
- d. the cost for inviting, acknowledging, and so on based on the instruction of the Court that trying the case.

(2) The amount of the cost is to be regulated by the Minister of Religious Affairs with the approval of the Supreme Court.

**Article 91.**

(1) The amount of the cost for the case as stated in article 90 must be written in the document of the decision or the Court sentence.

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(2) The amount of the cost which is charged by Court to either party in the case which is to be paid to the opponent in this matter must also be included in the document of the decision or the Court sentence.

## **CHAPTER V OTHER REGULATIONS**

### **Article 92.**

The Head of the Court regulates the job division of the Judges.

### **Article 93.**

The Head of the Court hands all the documents or other letters related to the case that is proposed to the Court to the Council of Judges to process.

### **Article 94.**

The Head of the Court decides the turn of the case in numerical order. However, if there is a certain case due to its impact to the public interest must be given a priority he will treat the matter in a specific order.

### **Article 95.**

The Head of the Court is obliged to observe the execution of the sentence or the decision of the Court that has obtained a fixed legal firmness.

### **Article 96.**

The Clerk of the Court is obliged to perform the administration of the case and regulates the duty of the Vice Clerk, the Junior Clerk and the Substitute Clerk.

### **Article 97.**

The Clerk, the Vice Clerk, the Junior Clerk, and the Substitute Clerk assist the Judge by means of attending and making the minutes of the Court session.

### **Article 98.**

The Clerk performs the duty of executing the decision or the sentence of the Court.

### **Article 99.**

(1) The Clerk is obliged to make a list of all cases accepted by the Secretariat of the Clerk.

(2) In providing the list as stated in point (1), each case is given numerical order and added with the short note about the case.

### **Article 100.**

The Clerk makes a duplicate copy of the decision and the sentence of the Court in accordance with the existing and valid law.

**Article 101.**

(1) The Clerk is responsible for the administration of the case, the sentence or the decision, the document, the acts, registration book the cost of the case, the money from the third party that should be kept, valuable or commercial letters, evidences, and other letters that kept in the secretariat.

(2) All lists, notes, stories, official reports, and all the documents of the case cannot be taken out of the Secretariat, except with the permission of the head of the Court based on the existing regulation.

(3) The procedure of issuing original letters, copies or duplicate of the Court decision or sentences, stories, official reports, acts, and other letters are to be regulated by the Supreme Court.

**Article 102.**

The task and responsibility as well as the working procedure of the Clerical job of a Court are to be regulated further by the Supreme Court.

**Article 103.**

(1) The Confiscation Officer performs the duties as follows:

- a. to execute any instruction from the chairman of the session;
- b. to address the announcements, reprimands, and informing the decision or sentence of the Court in a way that has been regulated by law;
- c. to confiscate property under the command of the Head of the Court;
- d. to provide an official report of the confiscation and send the duplicate/copy to the concerning parties.

(2) The Confiscation Officer is authorized to conduct his job within the judicial territory of the Court where he is assigned to work.

**Article 104.**

Further regulation of the job description of the Confiscation Officer will be regulated by the Supreme Court.

**Article 105.**

(1) The Secretary of the Court organizes/carries out the general administration of the Court.

(2) The Tasks and responsibilities, the organizational structure, and the working procedure of the Secretariat will further be regulated by the Minister of Religious Affairs.

**CHAPTER VI  
TRANSITIONAL REGULATION**

**Article 106.**

By the time this Law is in effect:

- (1) any existing Religious Judicature Institution is officially declared as the Religious Judicature Institution of this Law;

- (2) any existing working regulation concerning the Religious Judicature is declared as valid as long as the new stipulations based on this Law is not yet issued and that the existing regulations are not in contradictory with this Law.

## CHAPTER VII THE CONCLUDING PROVISIONS

### Article 107.

By the time this Law is in effect:

- a. the regulation on the Religious Judicature in Jawa and Madura (Staatsblad of the year 1882 Number 152 and Staatsblad of the year 1937 Number 116 and number 610);
- b. the Regulation on the Great Qodi's Deliberation for the part of South and East Kalimantan Regency (Staatsblad of the year 1937 Number 638 and number 639);
- c. the Government Regulation Number 45 of the year 1957 re the establishment of the Religious Judicature/Syari'ah Court outside Jawa and Madura (State Gazetten of the year 1957 Number 99), and
- d. regulations as stated in article 63 point (2) Law number 1 of the year 1974 re Marriage (State Declaration of the year 1974 Number 1, Additional State Gazetten number 3019), is declared as void.

(2) Regulations as stated in article 236a the renewed Reglemen Indonesia (RIB), Staatsblad of the year 1941 Number 44, re the request for help in dividing the non-disputed left property within the Muslim community which is done based on the Islamic Law is to be processed by the Religious Court.

### Article 108.

This Law shall come in to effect as of the date of promulgation. To let every citizen know, it is ordered to place this Law in the State Gazette of the Republic of Indonesia.

To be promulgated in Jakarta  
on 29 December 1989

The President of  
The Republic of Indonesia

**SOEHARTO**