Structured Reviewer on the SPECIAL RULES OF PROCEDURE GOVERNING THE PHILIPPINE SHARI’A COURTS

*(Structured Reviewer and Examination Format)*

**INTRODUCTION**

The **Special Rules of Procedure Governing the Shari’a Courts (Ijra-at al-Mahakim al-Shari’a)** — promulgated by the **Supreme Court of the Philippines under A.M. No. 02-11-10-SC (effective March 4, 2003)** — serve as the procedural framework for the **Shari’a District Courts (SDCs)** and **Shari’a Circuit Courts (SCCs)** under **Presidential Decree No. 1083**, or the **Code of Muslim Personal Laws of the Philippines (CMPL)**.

These rules harmonize **Islamic procedural principles (fiqh al-qadha)** with **Philippine judicial standards**, ensuring due process while upholding the tenets of Shari’a.

**PART I. SHORT AND DIRECT QUESTIONS (Knowledge Recall)**

**Q1. What is the legal basis for the promulgation of the Special Rules of Procedure Governing the Shari’a Courts?**

**A1.** Articles **148** and **158** of **P.D. 1083** authorize the **Supreme Court** to promulgate special rules of procedure for **Shari’a District** and **Shari’a Circuit Courts**, respectively. This authority was implemented through **A.M. No. 02-11-10-SC (2003)**.

**Q2. When did the Special Rules of Procedure Governing the Shari’a Courts take effect?**

**A2.** The Rules took effect on **March 4, 2003**, following their promulgation on **October 22, 2002** by the **Supreme Court**.

**Q3. What is the primary purpose of these Special Rules?**

**A3.** To provide a **uniform and efficient system** of procedure for the adjudication of cases under Muslim personal law, consistent with **Islamic jurisprudence (fiqh)** and **Philippine judicial standards**.

**Q4. To what courts do these rules apply?**

**A4.** They apply **exclusively** to the **Shari’a District Courts (SDCs)** and **Shari’a Circuit Courts (SCCs)** established under **Book IV of P.D. 1083**.

**Q5. What law applies suppletorily to the Special Rules?**

**A5.** Under **Article 187 of P.D. 1083**, the **Rules of Court** and **Civil Code** of the Philippines apply **suppletorily** insofar as they are not inconsistent with **Muslim law or the CMPL**.

**PART II. CONCEPTUAL AND ANALYTICAL QUESTIONS (Moderate Difficulty)**

**Q6. Differentiate the jurisdiction of the Shari’a District Court and the Shari’a Circuit Court under the Rules.**

**A6.**

| **Court** | **Jurisdiction** | **Examples** |
| --- | --- | --- |
| **Shari’a District Court (SDC)** | Original and appellate jurisdiction over Muslim personal law cases | Marriage, divorce, legitimacy, guardianship, wills, succession |
| **Shari’a Circuit Court (SCC)** | Exclusive original jurisdiction over criminal cases under P.D. 1083 and civil cases between Muslims involving marriage, mahr, mutʿa, support, restitution of marital rights | Divorce, betrothal, property disputes between spouses |

**Q7. How is an action commenced under the Special Rules?**

**A7.** Civil actions are commenced by **verified complaint** or **petition**, while criminal actions begin by **information** filed by the public prosecutor. All pleadings must indicate that the **parties are Muslims** and must be **written in English or Arabic**.

**Q8. What is the rule on representation by counsel before the Shari’a Courts?**

**A8.** Any **member of the Philippine Bar** may appear, but preference is given to **Muslim lawyers** who are members of the **Special Shari’a Bar**, as they are more familiar with **Islamic law and procedure**.

**Q9. What is the function of the Agama Arbitration Council under the Rules?**

**A9.** The **Agama Arbitration Council (Majlis al-Tahkim)** is a conciliatory body constituted by the court to promote **amicable settlement (sulh)** in disputes involving **marriage, divorce (talaq, khulʿ, tafwid)**, or **family reconciliation**, pursuant to **Articles 161–162, P.D. 1083** and **Rule VII** of the Special Rules.

**Q10. Are the technical rules on evidence strictly applied in Shari’a proceedings?**

**A10.** No. The court may **depart from technical rules** if strict adherence would defeat justice. Evidence must conform with **Islamic principles of credibility (ʿadl)** and **truthfulness (sidq)**, and witnesses should preferably be **Muslims** when Islamic law requires.

**PART III. APPLICATION AND CASE-TYPE QUESTIONS (Bar-Level)**

**Q11. A Muslim husband pronounces *talaq* but fails to notify the Shari’a Circuit Court. Can the divorce take effect?**

**A11.** **No.** Under **Article 161, P.D. 1083** and **Rule IX, Sec. 1** of the Special Rules, the husband must **file written notice** of the *talaq* with the Clerk of Court and furnish the wife a copy. The divorce takes effect **only after the lapse of the ʿiddah period** following compliance with procedural requirements.

**Q12. May the Shari’a Circuit Court apply the Rules of Court on execution of judgment?**

**A12.** **Yes, but suppletorily.** Under **Book IV, Rule XII** of the Special Rules, execution of decisions follows similar procedures as in regular courts, but must observe **Islamic fairness (adl)** and **public interest (maslahah)** principles.

**Q13. Distinguish between *sulh* and *tahkim* in the context of Shari’a procedure.**

**A13.**

| **Term** | **Nature** | **Legal Effect** |
| --- | --- | --- |
| **Sulh (conciliation)** | Voluntary settlement between parties | Binding as a compromise agreement |
| **Tahkim (arbitration)** | Decision by the Agama Arbitration Council or appointed arbitrators | Subject to court confirmation under Rule VII, Sec. 6 |

**Q14. A non-Muslim wife files for divorce against her Muslim husband in the Shari’a District Court. Is the action proper?**

**A14.** **No.** The **jurisdiction** of the Shari’a courts is **personal and limited**. Under **Article 13(1), P.D. 1083**, both parties must be **Muslims**, or the marriage must have been **solemnized under Muslim law**. Otherwise, jurisdiction lies with the **regular family courts**.

**Q15. What are the modes of appeal from decisions of the Shari’a Circuit Court and the Shari’a District Court?**

**A15.**

1. **From SCC → SDC**: via **ordinary appeal** within **15 days** under **Rule XIV**.
2. **From SDC → Supreme Court**: via **petition for review on certiorari**, limited to **questions of law** and filed within **15 days** after notice of judgment (Rule XV).

**SUMMARY TABLE OF KEY FEATURES**

| **Feature** | **Provision** | **Source** |
| --- | --- | --- |
| Legal basis | Articles 148, 158 | P.D. 1083 |
| Effectivity | March 4, 2003 | A.M. No. 02-11-10-SC |
| Governing courts | Shari’a District & Circuit Courts | Book IV, P.D. 1083 |
| Language | English or Arabic | Rule IV |
| Settlement mechanism | Agama Arbitration Council | Rule VII |
| Appeals | SCC → SDC → SC | Rules XIV–XV |
| Suppletory law | Rules of Court, Civil Code | Art. 187, P.D. 1083 |

**EXAM TIP**

**Mnemonic for Shari’a Principles of Procedure: “S-A-L-A-H”**

* **S** – *Sulh* (conciliation before litigation)
* **A** – *Agama Arbitration Council*
* **L** – *Limited to Muslim personal law cases*
* **A** – *Adl (justice)* governs judgments
* **H** – *Harmonized* with the Rules of Court suppletorily

**REFERENCES**

1. **Presidential Decree No. 1083 (Code of Muslim Personal Laws)**, Articles **139–159**, **187**.
2. **A.M. No. 02-11-10-SC (Special Rules of Procedure Governing the Shari’a Courts, 2003)**.
3. **Macaraan v. Macaraan**, G.R. No. 110249, May 27, 2003.
4. **Tomawis v. Balindong**, G.R. No. 182434, March 5, 2008.
5. **Qur’an 4:35** — conciliation between spouses through arbiters from both families.

**Disclaimer:**  
This material is prepared **for academic, bar review, and research purposes only**. It **does not constitute legal advice**. For binding rulings or legal representation, consult an **accredited Shari’a lawyer or judge** recognized by the **Supreme Court** or **National Commission on Muslim Filipinos (NCMF)**.