

SYARIAH COURT CIVIL PROCEDURE ENACTMENT 2004  
SYARIAH COURT CIVIL PROCEDURE (*SULH*) (SABAH) RULES 2023

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**SYARIAH COURT CIVIL PROCEDURE ENACTMENT 2004**  
**SYARIAH COURT CIVIL PROCEDURE (SULH) (SABAH) RULES 2023**  
**(G.N.S 10 of 2023)**

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

**Citation and commencement**

1. (1) These rules may be cited as the Syariah Court Civil Procedure (*Sulh*) (Sabah) Rules 2023.
- (2) These Rules shall be deemed to have come into operation on 18 October 2023.

**Application and non-application**

2. (1) These Rules shall apply to the cases specified in the First Schedule.
- (2) These Rules shall not apply to cases specified in the Second Schedule.

**Interpretation**

3. In these Rules, unless the context otherwise requires —

“Majlis *Sulh*” means a mediation session between parties chaired by a *Sulh* Officer to resolve a case through *sulh* at a location determined by the Court;

“remote communication technology” has the meaning assigned to it under the Syariah Court Civil Procedure (The Conduct of Syariah Court through Remote Communication Technology) Rules 2022 [No. 8 of 2022];

“*sulh*” means negotiation, agreement and settlement of cases between the parties in a Majlis *Sulh*; and

“*Sulh* Officer” means any Syariah Officer appointed by the Chief *Syar’ie* Judge to chair the Majlis *Sulh*.

**Establishment of Majlis *Sulh***

4. There shall be a Majlis *Sulh* established by the Court to conduct *sulh* between the parties in dispute which shall be chaired by *Sulh* Officer.

**Commencement of *sulh***

5. Upon receiving a summon or an application for any cause of action under the First Schedule, the Court shall —

- (a) as soon as practicable, register the case and fix a date for the parties to attend *sulh*; and
- (b) serve a notice of attendance by using Form KS 1 of the Third Schedule.

**Duration of *sulh***

6. The *Sulh* Officer shall resolve the *sulh* between parties within a period of ninety days from the date of registration of *sulh*.

**Extension of time**

7. Any party may apply to the Court to extend the duration of *sulh* upon the expiry of ninety days.

**Procedure of *sulh***

8. (1) *Sulh* shall be conducted in a *Majlis Sulh* attended by the parties to the cause of action.

(2) Each party shall attend the *Majlis Sulh* personally without any *Syar'ie* Lawyer or any other parties unless with the consent of the *Sulh* Officer.

(3) If any of the parties fails to attend the *Majlis Sulh*, the *Sulh* Officer shall refer the matter to the Court by making a report in Form KS 4 of the Third Schedule.

(4) For the purposes of these Rules, *Majlis Sulh* may be held through a remote communication technology.

**Conduct of *Majlis Sulh***

9. (1) A *Majlis Sulh* may be conducted in accordance with the following procedures:

- (a) opening statement by a *Sulh* Officer regarding —
  - (i) aims and objectives of *sulh*;
  - (ii) procedures and rules of *sulh*;

- (iii) confidentiality of communication and matters discussed in a *Majlis Sulh*; and
    - (iv) a *Sulh* Officer shall not be called in any Court proceedings in respect of a case which is the subject matter of the *sulh*;
  - (b) preliminary submission by the parties in dispute by submitting —
    - (i) matters in dispute;
    - (ii) effect and consequences of the dispute; and
    - (iii) recommendation of settlement;
  - (c) joint discussion between the parties in dispute and a *Sulh* Officer to reach settlement;
  - (d) private session (caucus) where the *Sulh* Officer meet with the parties separately if the joint discussion in paragraph 9(1)(c) cannot be held or if he thinks it is necessary; and
  - (e) further joint discussion where the *Sulh* Officer hold a joint discussion between the parties to reach an amicable and voluntary settlement.
- (2) The processes in paragraphs 9(1)(c), (d) and (e) may be repeated if the *sulh* is still within the period of ninety days or the *Sulh* Officer is confident that amicable settlement can be reached.
- (3) For the purpose of subrule (2) the Court shall issue a notice of adjournment of *Majlis Sulh* in Form KS 2 of the Third Schedule.
- (4) During the conduct of *Majlis Sulh*, the *Sulh* Officer shall determine —
- (a) issues and matters in dispute;
  - (b) status of the parties in dispute;
  - (c) interests of the parties;
  - (d) options of settlement; and
  - (e) conduct of *sulh* in accordance with Islamic Law and any relevant written laws.

**Sulh agreement**

10. (1) If the parties voluntarily agree to resolve all or any part of the claims, the *Sulh* Officer shall prepare a *sulh* agreement by using Form KS 3 of the Third Schedule, containing the agreed matters which shall be signed by the parties, before the *Sulh* Officer.

(2) Where the *sulh* agreement has been duly signed by the parties, the *Sulh* Officer shall submit the *sulh* agreement to the Court together with a report in Form KS 4 of the Third Schedule.

(3) The *Sulh* Officer shall ensure that the *sulh* agreement shall not contain any term contrary to Islamic Law and any relevant written laws.

**Withdrawal of claim in dispute**

11. If during the *Majlis Sulh* is carried out, the plaintiff agrees not to pursue with the claim in the dispute, the plaintiff may withdraw his claim by giving a notice to the *Sulh* Officer and the *Sulh* Officer shall make a report of the withdrawal to the Court by using Form KS 4 of the Third Schedule.

**Fail to resolve claim in dispute**

12. (1) Where the parties failed to resolve all or any part of the claim in dispute, the *Sulh* Officer shall refer the matter to Court by making a report in Form KS 4 of the Third Schedule.

(2) Notwithstanding subrule (1), the *Sulh* Officer may, subject to rules 6 and 7, if the parties agree and if he is in the opinion that there is a possibility for the parties to resolve the claims amicably, continue with the *sulh* in respect of any part of the claim which is still in dispute.

**Consent judgement**

13. The Court shall record the *sulh* agreement as a consent judgment —

- (a) with the appearance of the parties, if it thinks necessary; or
- (b) without the appearance of the parties,

the case may be.

### **Termination of Majlis Sulh**

14. A Majlis *Sulh* shall be terminated upon —

- (a) the withdrawal of *Sulh* Officer from the Majlis *Sulh* with the consent of the Chief *Syar'ie* Judge;
- (b) withdrawal of any party from the Majlis *Sulh*;
- (c) the absence of any party in the Majlis *Sulh*;
- (d) death or incapacity of any party; or
- (e) the opinion of the *Sulh* Officer, subject to the approval of the Chief *Syar'ie* Judge, that there are unreasonable circumstances to proceed with the Majlis *Sulh*.

### **Disclosure of communication**

15. (1) No person shall disclose any communication in Majlis *Sulh*.

(2) Notwithstanding subrule (1), communication in Majlis *Sulh* may be disclosed, if —

- (a) the disclosure is made with the consent of parties;
- (b) the disclosure is made with the consent of the *Sulh* Officer conducting the Majlis *Sulh*;
- (c) such disclosure is required under these Rules or for the purpose of any *mal*, civil or criminal proceedings under any written laws; or
- (d) such disclosure is required under any other written laws for the purpose of the execution or enforcement of a *sulh* agreement.

### **Revocation and savings**

16. (1) The Syariah Court Civil Procedure (*Sulh*) Rules 2010 is revoked.

(2) Any declaration, order, notification, notice, form, letter of authorization or appointment issued or made under or by virtue of the previous Rules shall, on the coming into operation of these Rules, continue in force, in so far as they are not inconsistent with these Rules, until revoked or replaced by a declaration, order, notification, notice, form, letter of authorization or appointment issued or made under these Rules.

(3) All proceedings which were instituted before these Rules came into force shall continue until the completion of such proceedings.

FIRST SCHEDULE  
[subrule 2(1)]  
APPLICATION

Cases can be referred to the Majlis *Sulh* are as follows:

- (a) betrothal damages;
- (b) *muta'ah*;
- (c) jointly acquired property;
- (d) maintenance of wife;
- (e) maintenance of disabled party;
- (f) security for maintenance;
- (g) maintenance of *'iddah*;
- (h) variation of a maintenance order;
- (i) arrears of maintenance;
- (j) maintenance of child;
- (k) *hadhanah*;
- (l) variation of order for maintenance of child;
- (m) variation of order for *hadhanah*;
- (n) marital damages;
- (o) right to accommodation;
- (p) order to resume cohabitation;
- (q) order for a wife to obey her husband;
- (r) dowry; or
- (s) any such case instructed by the Judge which in his opinion is necessary to be referred to a Majlis *Sulh*.

SECOND SCHEDULE  
[subrule 2(2)]  
NON-APPLICATION

Cases which should not go through the process of *sulh*, including —

- (a) *ex-parte* cases;
- (b) cases where a mediation process was conducted under the Legal Aid Act 1971 [Act 26];
- (c) cases where a settlement agreement or consent entered between parties before a *Syar'ie* Lawyer;
- (d) cases where the whereabouts of the other party is unknown or cannot be traced by the plaintiff;
- (e) cases involving parties requiring a guardian *ad litem* under section 24 of the Syariah Court Civil Procedure Enactment 2004; or
- (f) any cases where the Court is satisfied that there are reasonable circumstances which cause the reference to the *Majlis Sulh* to be impractical.

Sabah Lawnet



THIRD SCHEDULE  
[paragraph 5(b)]  
FORM KS 1

IN THE SYARIAH SUBORDINATE/HIGH COURT  
AT.....  
IN THE STATE OF SABAH

CASE MAL NO. : .....  
CASE SULH NO. : .....

BETWEEN

NAME : .....  
NRIC NO. : .....  
ADDRESS : .....

PLAINTIFF

AND

NAME : .....  
NRIC NO. : .....  
ADDRESS : .....

DEFENDANT

NOTICE OF ATTENDANCE OF MAJLIS *SULH*

TAKE NOTICE THAT the Plaintiff has filed a case.....(type of claim/  
application).....to this Court.

YOU ARE HEREBY ORDERED to attend personally before the *Sulh* Officer in this Court on:

Date : .....  
Time : .....  
Venue : .....

YOU ARE REQUIRED TO ATTEND in the *Majlis Sulh* personally without the presence of *Syar'ie* Lawyer or your representative.

YOU ARE HEREBY INFORMED that your absence will cause this case to be referred to the Court for hearing.

THIS NOTICE ISSUED under the signature and seal of this Court on ..... day of .....20.....

Seal

.....  
*Judge/Registrar*  
*Syariah Subordinate/High Court*

[subrule 9(3)]  
FORM KS 2

IN THE SYARIAH SUBORDINATE/HIGH COURT  
AT.....  
IN THE STATE OF SABAH

CASE MAL NO. : .....  
CASE SULH NO. : .....

BETWEEN

NAME : ..... PLAINTIFF  
NRIC NO. : .....  
ADDRESS : .....

AND

NAME : ..... DEFENDANT  
NRIC NO. : .....  
ADDRESS : .....

NOTICE OF ADJOURNMENT OF MAJLIS *SULH*

PLEASE TAKE NOTE that the above case which is fixed on ..... at..... a.m./  
p.m. is adjourned to .....at.....a.m./p.m.

THIS NOTICE ISSUED under the signature and seal of the Court on.....day  
of ..... 20.....

Seal

.....  
*Judge/Registrar*  
*Syariah Subordinate/High Court/*  
*Sulh Officer*

[subrule 10(1)]  
FORM KS 3

IN THE SYARIAH SUBORDINATE/HIGH COURT  
AT.....  
IN THE STATE OF SABAH

CASE MAL NO. : .....  
CASE SULH NO. : .....

BETWEEN

NAME : ..... PLAINTIFF  
NRIC NO. : .....  
ADDRESS : .....

AND

NAME : ..... DEFENDANT  
NRIC NO. : .....  
ADDRESS : .....

Before

.....  
Sulh Officer

At Syariah Subordinate/High Court

.....  
On .....

SULH AGREEMENT

THIS *SULH* AGREEMENT is made on ..... between .....  
addressed at ..... (hereinafter known as "the Plaintiff) and  
..... addressed at .....(hereinafter known as  
"the Defendant").

MAJLIS *SULH* was held between the Plaintiff and the Defendant on .....  
at.....a.m./p.m. at .....

After negotiation has been held in the Majlis *Sulh*, both parties Plaintiff and Defendant voluntarily agreed as follows:

1. ....
2. ....
3. ....

AS A WITNESS TO THIS *SULH* AGREEMENT, both parties verified that they have read and understand the content in this *SULH* AGREEMENT and both parties hereby fix their signature respectively on the date as stated below.

Signed by the Plaintiff

.....  
Name :  
NRIC No. :  
Date :

Signed by the Defendant

.....  
Name :  
NRIC No. :  
Date :

Before

.....  
*Sulh* Officer  
Name :  
Court :  
Date :



[subrules 8(3) and 10(2), rule 11 and subrule 12(1)]

FORM KS 4

IN THE SYARIAH SUBORDINATE/HIGH COURT

AT.....

IN THE STATE OF SABAH

CASE MAL NO. : .....

CASE SULH NO. : .....

BETWEEN

NAME : .....

PLAINTIFF

NRIC NO. : .....

ADDRESS : .....

AND

NAME : .....

DEFENDANT

NRIC NO. : .....

ADDRESS : .....

Before

.....

Sulh Officer

At Syariah Subordinate/High Court

.....

On .....

SULH REPORT

THIS SULH REPORT is between .....(NRIC No.: .....  
.....) (hereinafter known as "the Plaintiff") and .....  
.....(NRIC No.....) (hereinafter known as "the  
Defendant").

THE MAJLIS SULH was held between the Plaintiff and the Defendant at .....  
on .....day of.....20.....at.....a.m./p.m.

AND IT IS HEREBY STATED THAT the *sulh* is —  
(Please tick (/) where is applicable)

- (a) withdrawn by the Plaintiff;  
(attach notice of withdrawal and state the reason)   
.....
- (b) fully succeed;  
(attach Form KS 3 and state the reason)   
.....
- (c) partially succeed;  
(attach Form KS 3 and state the claim that is still in dispute)   
.....
- (d) failed;  
(state the reason)   
.....
- (e) failed due to the non attendance of the parties; or  
(state the reason and the date of non attendance of the parties)   
.....
- (f) others.  
(state the reason)   
.....

Thank you.

Yours Faithfully,

.....  
Sulh Officer  
Syariah Subordinate/High Court

Made 18 October 2023

TUAN HAJI SAMAL BIN MUNJI  
Chief Syari'ie Judge  
Department of Syariah Judiciary Sabah