

L.N. 35 of 1984

PARTITION OF INHERITANCES ACT, 1984
(ACT NO. XIII OF 1984)

Partition of Inheritances Regulations, 1984

IN virtue of the powers conferred by section 18 of the Partition of Inheritances Act, 1984, the Senior Deputy Prime Minister and Minister of Justice and Parliamentary Affairs has made the following regulations:—

Citation.

1. These regulations may be cited as the Partition of Inheritances Regulations, 1984.

Written
pleadings.
Cap. 15

2. The provisions of Title IV of Part I of Book II of the Code of Organization and Civil Procedure other than section 178 thereof, and of any regulations made thereunder shall apply *mutatis mutandis* to written pleadings and other acts of procedure filed in or before the Partition of Inheritances Tribunal in so far as those provisions are not incompatible with the Partition of Inheritances Act or of any regulation made thereunder.

Contents of
application.

3. The application to the Tribunal shall contain —

(a) a clear and concise statement of the facts, without reference to authorities;

(i) each fact shall be stated in a separate paragraph;

(ii) each paragraph shall be numbered and express reference shall be made therein to every document or other evidence touching such facts;

(b) the claim which shall clearly and correctly state the object thereof.

Filing of
application.

4. (a) The application may be filed in the Registry of the Tribunal by the applicant or one of the applicants and the facts therein stated shall be confirmed on oath before the Registrar.

(b) The application shall be signed at the end thereof by the applicants or by the person duly representing them on their behalf.

Documents
to be
produced
with
application.

5. (1) The applicant shall, together with the application, produce all such documents in support of his claim as it may be in his power to produce.

(2) Without prejudice to the generality of paragraph (1) of this regulation, the applicant shall, with the application, produce:

(i) the death certificate of the person from whom the inheritance devolves;

(ii) the certificates from the Public Registry and the Courts showing the will or wills regulating the succession of the person from whom the inheritance devolves or that such person died intestate, as the case may be;

(iii) a copy of each will regulate the succession of the person from whom the inheritance devolves;

(iv) where the succession has been declared open in favour of any person by the Second Hall of the Civil Court or by the Court of Voluntary Jurisdiction in Gozo, an authentic copy of the decree declaring the opening of such succession;

(v) a statement showing the share of the inheritance pertaining to each of the co-owners;

(vi) a geneological tree showing the relationship of the co-owners of the property to be partitioned, with the person from whom the inheritance devolves, and where any or all the co-owners are not so related a declaration stating such fact;

(vii) a list of all the property that is to be partitioned, and in the case of immovable property a description thereof together with a plan showing the location and area of such property;

(viii) a certificate issued by the Commissioner of Inland Revenue that death duty on the inheritance has been paid or that the inheritance is not chargeable under the Death and Donation Duty Act, 1973.

(3) Where any person fails to produce any document in accordance with this regulation, he may not without leave of the Tribunal produce such document at any later stage of the proceedings.

6. (1) The documents referred to in the last preceding regulation shall be accompanied by a note showing the nature of such documents and the particular proof which it is intended to make thereby.

Mode of
production
of documents.

(2) Such note shall be served on the opposite party.

(3) This regulation shall apply in all cases where documents are produced.

7. (1) Where the respondent does not intend to admit wholly the claim of the applicant his answer shall contain:

Contents of
answer.

(a) any plea as would be taken to be waived if not raised before the contestation of the suit;

(b) (i) a denial, or an admission or explanation of the circumstances of the fact set out in the application;

(ii) the provisions of sub-paragraphs (i) and (ii) of paragraph (a) of regulation 3 shall apply to this sub-paragraph;

(c) a clear and concise statement of the pleas on the merits of the claim without reference to authorities; and

(d) the demand of the respondents.

(2) The respondent shall produce all such documents in support of his contentions as it may be in his power to produce.

(3) All documents in support of the pleas shall be produced together with the answer, and where any such document is not so produced it may not without leave of the Tribunal be produced at any later stage of the proceedings.

8. The parties may, by leave of the Tribunal, by means of a note state any points of disagreement with the contents of written pleadings, with documents filed therewith and with the contents of notes already filed.

Points of
disagreement.

9. The provisions of regulation 4 respecting the application shall apply also to the answer.

Filing of
answer.

List of
witnesses.

10. Together with the application and the answer there shall also be produced by the applicant and respondent respectively a list of the names of the witnesses the party intends to produce, including the subpoena of the other party, stating in respect of each of them the proof he intends to establish by their evidence.

Mode of
admitting
claim.

11. Where the respondent intends to admit the claim wholly and unconditionally, it shall be sufficient for him to file a note to that effect.

Service of
answer.

12. A copy of the answer together with the documents and notes filed therewith shall be served on each of the applicants.

Witnesses.

13. No witness may be produced whose name shall not have been given in the list referred to in regulation 10, unless the Tribunal is satisfied that the witness was not known to the party at the time of filing the application or the answer, as the case may be, or the necessity of producing the witness arises at any time after the filing of the application or answer.

Date of
hearing.

14. (1) When the time for filing the answer expires or earlier if all the respondents have filed the answer to the application, or when a matter has been transmitted to the Tribunal in terms of section 9 of the Partition of Inheritances Act, the Tribunal shall set a date for the hearing of the case and the Secretary shall cause a list of the cases which are to be heard on a particular sitting of the Tribunal to be posted up in the Registry of the Tribunal.

(2) Subsections (2) and (3) of section 192 of the Code of Organization and Civil Procedure shall apply to the list referred to in paragraph (1) of this regulation.

(3) The Secretary shall cause the parties to be served with a notice of the day appointed for hearing at least two working days before the day so fixed.

Fees.

15. The fees set out in the Schedules to the Code of Organization and Civil Procedure shall *mutatis mutandis* apply to fees due to the Registry of the Tribunal and Advocates, including persons duly representing the parties in the proceedings, in respect of causes before the Tribunal, and for the purpose of this regulation the Partition of Inheritances Tribunal shall be deemed to be a superior court.