

CAP. 338.

CYPRUS

TURKISH FAMILY COURTS

CHAPTER 338 OF THE LAWS

1959 EDITION

PRINTED BY

C. F. ROWORTH, LIMITED, 54, GRAFTON WAY, LONDON, W.1.

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1959

CHAPTER 338.

TURKISH FAMILY COURTS.

ARRANGEMENT OF SECTIONS.

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A LAW TO MAKE BETTER PROVISION FOR THE ESTABLISHMENT AND CONSTITUTION OF TURKISH FAMILY COURTS.

42 of 54.
29 of 58.

[24th August, 1954.]

Short title.

1. This Law may be cited as the Turkish Family Courts Law.

PART I.

DEFINITIONS.

Interpreta-
tion.

2. In this Law, unless the context otherwise requires—
“judge” means a judge of a Turkish Family Court established under the provisions of this Law;

"religious matters" means the following matters and no others concerning persons of the moslem faith:—

- (a) betrothal, marriage and divorce and matters incidental thereto;
- (b) maintenance in relation to marriage and divorce, including the maintenance of the children of the marriage;
- (c) the registration of vakfihs.

PART II.

TURKISH FAMILY COURTS, JUDGES AND OFFICERS.

3. There shall be established in the Colony Turkish Family Courts, and the Governor may from time to time fix the number of the Turkish Family Courts which shall be maintained and define, extend and vary the local limits of their jurisdiction.

Turkish
Family
Courts.

4. (1) Judges of Turkish Family Courts shall be appointed by an instrument in writing under the hand of the Governor and shall hold office during the Governor's pleasure, subject to any conditions as the Governor may deem fit to impose.

Appoint-
ment of
judges, etc.

(2) The Governor may, by an instrument in writing under his hand, appoint any fit and proper person to act as a judge for such time as may be specified in the instrument or to hear and determine any proceeding specified therein, and every person so appointed shall, while so acting, or during the hearing and determination of such proceeding, have all the powers of a judge.

5. Every judge shall, before entering in the execution of the duties of his office, take and subscribe before the Chief Justice the oath of allegiance and the judicial oath in the form set out in the First Schedule.

Oath of
allegiance
and
judicial
oath.

First
Schedule.

6. During the temporary absence of a judge, or whenever it is for any cause undesirable that a judge should hear a particular proceeding, the Chief Justice may direct that the judge of a Turkish Family Court shall in addition act as judge of the Turkish Family Court in place of the judge temporarily absent therefrom or shall hear and determine any proceeding specified in the direction.

Power to
appoint one
judge to act
for another.

Appoint-
ment of
other
officers.

7. The Governor may appoint such number of persons to be Registrars and other officers of Turkish Family Courts for the performance of such duties as they may be required or empowered to perform under any Law or Rules in force for the time being, relating to such Courts.

PART III.

JURISDICTION, LAW AND APPEALS.

Jurisdiction.

8. (1) The Turkish Family Courts shall have jurisdiction to hear and determine religious matters and shall, subject to the provisions of section 3, have exclusive jurisdiction in matters referred to in paragraphs (a) and (b) of the definition of "religious matters" in section 2, notwithstanding that one of the parties to a betrothal or marriage is a non-moslem woman who has betrothed or married a moslem man.

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(2) The Turkish Family Courts shall exercise the powers conferred on District Courts by the Guardianship of Infants and Prodigals Law in respect of infants and prodigals who are the issue of a marriage valid under the Turkish Family (Marriage and Divorce) Law, or where the infant or prodigal is not the issue of a lawful marriage and the mother is a moslem of Turkish race.

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Appeals
from
Turkish
Family
Courts.

9. Every decision of a Turkish Family Court shall be subject to an appeal to the Supreme Court and such appeal shall be heard and determined in accordance with any Law or Rules of Court in force for the time being relating to appeals to the Supreme Court in civil cases.

Law to be
applied.

10. Every Turkish Family Court, in taking cognizance of, or dealing with, any religious matter under this Law or any other Law in force for the time being, and the Supreme Court on appeal, shall apply—

- (a) the Sheri Law save as other provision has been or shall be made by any Law;
- (b) any Law or public instrument dealing with any religious matter, which provides that it shall be applied by a Turkish Family Court.

Application
of certain
laws.

11. (1) The enactments set out in the first column of the Second Schedule shall apply to all proceedings in a Turkish Family Court to the extent and subject to the modifications

set out in the second column thereof, and a Turkish Family Court shall be deemed to be a Court within the meaning of the enactments applied in whole or in part by this section.

Second
Schedule.

(2) Rules of Court made to regulate the practice and procedure in relation to matters contained in the enactments applied in whole or in part by this section, shall, *mutatis mutandis*, apply to proceedings in a Turkish Family Court.

PART IV.

MISCELLANEOUS.

12. Subject to any Rules of Court, the Turkish Family Courts shall be open throughout the year except on Sundays and public holidays.

Period of
sittings.

13. (1) Each Turkish Family Court shall have and use as occasion requires a seal bearing the style of such Court and such device as may be approved from time to time by the Governor, and the Registrar of such Court shall have the custody thereof.

Seals.

(2) All writs, orders and other instruments issued by a Turkish Family Court shall be sealed with the seal of such Court.

14. A Turkish Family Court, if satisfied that a person is not worth fifty pounds (his wearing apparel and the subject-matter of the action or proceeding alone excepted), may admit such person to sue or defend as a pauper and may make an order exempting him from the payment of all or any fees, or as to the time and manner of the payment of the fees or any of them as to the Court may seem just.

Paupers.

2 of 29/58.

15. (1) No writ of execution by the sale or sequestration of immovable property shall issue out of a Turkish Family Court.

Execution
against
immovables.

(2) Where a debt is due under a judgment of a Turkish Family Court and the Court is satisfied that a writ of execution upon movable property has failed to satisfy the debt and the debtor has an interest in immovable property the Turkish Family Court shall transfer the execution of the judgment to the District Court where such immovable property is situate and thereafter such District Court shall have jurisdiction to enforce the judgment as if the same were a judgment of the District Court.

Review by
Judge of
Supreme
Court of
order to
imprison
debtor.
Cap. 6.

16. (1) Where the Court commits any debtor to prison under section 82 of the Civil Procedure Law it shall within four days of such committal send to the Chief Registrar a copy of the order and a statement of the grounds upon which the same was made.

(2) A Judge of the Supreme Court in Chambers shall review the order and the grounds therefor and may, if he thinks fit, vary or rescind such order.

Service and
execution of
legal
processes.

17. Subject to any Rules of Court under this Law, writs and other processes of the Court shall *mutatis mutandis* be served, executed and returned by the Sheriff or his officers in the same manner as such writs and processes are served, executed and returned when issued by a District Court:

Cap. 8.

Provided that the liabilities of the Sheriff shall be limited as provided in the Courts of Justice Law.

Practice and
procedure.

18. The jurisdiction conferred by this or any other Law upon the Turkish Family Courts shall be exercised in accordance with the procedure prescribed by any Law in force for the time being or any Rules of Court under any such Law, and in default thereof shall, in so far as circumstances permit, be exercised in accordance with the practice and procedure observed by the District Courts.

Rules.

19. (1) The Governor, with the advice and assistance of the Chief Justice, may, from time to time, by writing under the hand and official seal of the Governor and the hand of the Chief Justice, make Rules—

- (a) for regulating the exercise of the duties of the judges and the sittings of the Turkish Family Courts under the directions and supervision of the Chief Justice;
- (b) for regulating the pleading, practice and procedure of, and the evidence to be admitted and taken in, the Turkish Family Courts;
- (c) for regulating the qualification of persons who may be permitted to appear on behalf of parties before the Turkish Family Courts;
- (d) generally, for regulating any matters relating to the practice and procedure of Turkish Family Courts or to the duties of any officer of such Courts or to the costs of proceedings therein

to be allowed to the advocates and others lawfully representing any parties thereto;

(e) prescribing the fees to be taken by Turkish Family Courts or by any officer of such Courts.

(2) Every Rule made and every list of fees prescribed under the provisions of this section shall be published in the Gazette, and shall come into force either immediately or on such day as shall be provided by such Rule upon its publication as aforesaid.

20. Whenever in any Law or public instrument reference is made to Sheri Tribunals or to Mehkeme-i-Sherié or to a Mussulman Religious Tribunal or to a Tribunal as meaning a Mussulman Religious Tribunal, it shall be deemed to be reference to the Turkish Family Courts as established under this Law and any such reference in any such Law or public instrument shall be read accordingly.

References to Sheri Tribunals, etc., to be references to Turkish Family Courts under this Law.

FIRST SCHEDULE.

(Section 5.)

OATH OF ALLEGIANCE.

I, , do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to Law,—so help me God.

JUDICIAL OATH.

I, , do swear that I will well and truly serve Our Sovereign Lady Queen Elizabeth the Second in the office of judge of Turkish Family Courts and will do right to all manner of people after the Laws and usages of Cyprus without fear or favour, affection or ill-will,—so help me God.

SECOND SCHEDULE.

(Section 11(1).)

(1)	(2)
The Evidence Law (Cap. 9):	The whole Law.
The Civil Procedure Law (Cap. 6)	The whole Law, excepting sections 22 to 52 inclusive and sections 72 and 97.
The Courts of Justice Law (Cap. 8)	Sections 37 and 46 to 62 inclusive. Sections 67 and 69 to 75 inclusive modified as follows:— In section 71 for " President of District Court " read: " judge ". In section 73 for " the presiding or senior Judge or another Judge by his direction " read: " the judge ".

This Law came into operation on the 1st day of January, 1955: see notice published under Notification No. 1232 in the Gazette of 23rd December, 1954.